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TUESDAY, APRIL 29, 1975

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Pages 18541–18750

HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

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reminders

NOTE: There were no items published after October 1, 1972, that are eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

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NOTE: No acts approved by the President were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

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Title 4—Accounts

CHAPTER III—COST ACCOUNTING STANDARDS BOARD

PART 303—RELEASE OF INFORMATION FEE SCHEDULES

Adoption of Revisions

On page 4445 of the FEDERAL REGISTER of January 30, 1975, revisions to §§ 303.5 and 303.9 of Part 303 were published as proposed rules. The revisions implemented Pub. L. 93-502 which amended 5 U.S.C. 552 known as the Freedom of Information Act.

Comments received in response to the January 30 publication have been considered but no change has been made in the revisions as published at that time. Accordingly, adoption of the revisions is hereby confirmed. The revisions, the effective date of which was February 19, 1975, are set forth below.

(84 Stat. 796 Sec. 103; 50 U.S.C. App. sec. 2168)

ARTHUR SCHOENHAUT,
Executive Secretary.

1. Section 303.5 *Fees for copying* is revised as follows:

§ 303.5 Fees for copying.

(a) The fee for searching for and duplicating Board records shall be $5.00 for each full hour of time required. No charge will be made for fractions of an hour.

(b) Any inquiry that appears to involve a total of more than 10 hours of search and duplication time will not be regarded as a request for information under this Part 303 unless this part is specifically cited or the inquirer specifically agrees to accept costs necessary to cover the estimated number of hours involved.

(c) Notwithstanding the foregoing, no charge or a reduced charge will be made whenever the Executive Secretary of the Cost Accounting Standards Board determines that a waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

2. Section 303.9 *Refusal to make record available* is revised as follows:

§ 303.9 Refusal to make record available.

(a) Where the material requested is not in being, is not a record, is an exempted record, or is otherwise unavailable, the request will be denied. The person making the request will be informed within 10 working days after receipt of the request for the material of the denial and the reason therefor.

(b) Not more than 20 days after a request for a record is denied pursuant to paragraph (a) of this section, the person making the request may appeal the denial to the Chairman, Cost Accounting Standards Board, who will make determinations on such appeals. The appeal shall be by letter, and shall identify the material requested and denied in the same manner as it was identified in the initial request; shall indicate the dates of the request and denial; and shall indicate the expressed basis for the denial. In addition, the letter of appeal shall state briefly and succinctly the reasons why the record should be made available.

(c) The Chairman may consult with others in making his determination, and shall by letter inform the requester, within 20 business days after receipt of the appeal, whether the requested material will be made available in whole or in part. If the request is denied in whole or in part, the basis for denial will be stated.

Effective date. The amendment shall become effective February 19, 1975.

[FR Doc.75-11107 Filed 4-28-75;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Commerce

Section 213.3314 is amended to show that one position of Confidential Assistant to the Director, Bureau of East-West Trade is excepted under Schedule C.

Effective on April 29, 1975, § 213.3314 (m) (20) is added as set out below.

§ 213.3314 Department of Commerce.

* * * * *

(m) *Office of the Assistant Secretary for Domestic and International Business.* * * *

(20) One Confidential Assistant to the Director, Bureau of East-West Trade.

* * * * *

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-11085 Filed 4-28-75;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Area Released From Quarantine

This amendment excludes a portion of Suffolk County in New York from the areas quarantined because of exotic Newcastle disease under the regulations in 9 CFR Part 82, as amended. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah, and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded area. No areas in the continental United States remain under quarantine.

Accordingly, Part 82, Title 9, Code of Federal Regulations is hereby amended in the following respect:

§ 82.3 [Amended]

In § 82.3, paragraph (a) (1) relating to the State of New York is deleted.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 115, 117, 120, 123-126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141.)

Effective date. The foregoing amendment shall become effective April 24, 1975.

The amendment relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 24th day of April, 1975.

J. M. HEJL,
Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.75-11169 Filed 4-28-75;8:45 am]

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE (MEAT AND POULTRY PRODUCTS INSPECTION), DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—MANDATORY MEAT INSPECTION

PART 317—LABELING, MARKING DEVICES AND CONTAINERS

PART 319—DEFINITION AND STANDARDS OF IDENTITY OR COMPOSITION STANDARD OF COMPOSITION FOR BOCKWURST

Statement of Considerations. On June 14, 1973, there appeared in the FEDERAL REGISTER (38 FR 15628) a notice of proposed rulemaking under the Federal Meat Inspection Act, as amended (21 U.S.C. 601 *et seq.*), to amend the Federal meat inspection regulations (9 CFR Part 319) to provide a standard of composition for product labeled "Bockwurst." The proposal was announced in an effort to insure that products labeled "Bockwurst" contain those ingredients and reflect the distinguishing characteristics that have been traditionally associated with products identified with that name. Data pertinent to the proposed amendment were developed from observations of industry practices, product formula information submitted with requests for label approvals, and recommendations from members of the meat industry and State government officials.

Interested persons were afforded opportunity to submit data, views, and arguments concerning the proposal. A total of 10 written comments were submitted on the proposal. Four represented the views of State meat inspection program officials. The remainder were from processors, consumers, a supplier to the meat trade, and a meat processing trade organization. The comments expressed general agreement with the provisions of the proposed standard, although some suggested additional items for consideration as ingredients of the product.

One suggestion received in the comments was to permit the use of "modern forms" of whole eggs and egg whites as ingredients of "Bockwurst" since eggs for manufacturing are as readily available in frozen or dried form as they are as fresh eggs, and are used in all three forms in the commercial production of many varieties of foods. Upon review of this point, the Department's records do indicate that the egg products are used as claimed and whites are present in some recipes used to prepare "Bockwurst." Therefore, the standard has been revised to incorporate this suggestion. The required whole eggs refer to dried or frozen eggs, as well as fresh eggs. Egg whites (fresh, dried, or frozen) are an optional ingredient.

Another comment suggests that calcium reduced dried skim milk be permitted in "Bockwurst" and cited as support: (1) Its frequent usage in meat food products such as sausage and similar items. (2) Its acceptability by USDA for use on the same basis as nonfat dry milk. In view of these points, calcium reduced dried skim milk has been included in the standard as an ingredient for use on the same basis as "milk." Consistent with this reasoning dried milk has similarly been included.

A federally inspected establishment serving a geographic area of large volume "Bockwurst" consumption objected to the mandatory use of milk in the proposed standard. This opposition was based on the long time practice by the firm of using water in the product's preparation rather than milk. To provide product composition versatility so consumers can be supplied with familiar products, the standard has been changed to require the mandatory use of milk or water, or a combination thereof.

Some of the comments recommended that limited amounts of bread or soy protein concentrate be included in the standard as optional ingredients of "Bockwurst" and that they be identified by prominent labeling. The comments pointed out that the bread ingredient would contribute to the preparation of a product with characteristics unique and familiar to consumers in certain marketing areas, while the use of soy protein concentrate was urged on the basis of being a common ingredient of many meat and poultry products that would enhance the nutrition of Bockwurst without otherwise affecting the product provided it is used at a reduced level.

Records of the Department indicate that the other binders authorized by the meat inspection regulations for use in sausage products are included in the formulas of bockwurst prepared by some federally inspected establishments. There does not appear to be any reason for discontinuing such preparation practices. Accordingly, the standard for bockwurst contains provisions for the optional use, within limits, of bread, cereal, vegetable starch, starchy vegetable flour, soy flour, soy protein concentrate, and isolated soy protein. For the most part, the limits reflect longstanding industry practice in the preparation of this product. Further, at various times in the past, the Department has considered officially recognizing and permitting the 3½ percent limit, or 2 percent in the case of isolated soy protein, with respect to these binders. These limits prescribed herein for binders are in keeping with the Department's policy for their use in a number of other meat products for which standards have been promulgated or that are approved on the basis of containing common or usual ingredients. A prominent statement, such as "cereal added," will be required by the standard to be present on labels in conjunction with the product name when these binders are included as bockwurst ingredients.

Through oversight, the Department failed to indicate in the proposal that bockwurst may be prepared in other forms as well as in a casing. This error has been corrected by deleting any references to specific forms in which the product may be prepared.

In the proposal, it was provided that the meat ingredient must be "frozen or fresh (unfrozen) meat." This has been reworded to read "fresh or fresh frozen meat." This represents no change in policy, but merely clarifies that only fresh meat, whether or not in a frozen state, may be used.

Careful consideration of all comments and other available information indicated that it is in the public interest to amend the Department's meat inspection regulations and provide a standard of composition and labeling requirements for products labeled "Bockwurst."

Accordingly, 9 CFR, Parts 317 and 319 of the meat inspection regulations are amended as follows:

1. A new subparagraph (33) is added to § 317.8(b) to read as follows:

§ 317.8 False or misleading labeling or practices generally; prohibitions and requirements for labels and containers.

* * * * * *

(b) * * *

(33) When bread, cereal, vegetable starch, starchy vegetable flour, soy flour, soy protein concentrate, or isolated soy protein is added in bockwurst as permitted in § 319.281 of this subchapter, there shall appear on the label in a prominent manner and contiguous to the product name, the name of such added ingredient, e.g., "Bread Added," "Cereal Added," or "Soy Protein Concentrate Added," as the case may be.

2. The heading of Subpart L, Part 319, is amended to read as set forth below. The Table of Contents is also amended to reflect this new heading.

Subpart L—Meat Specialties, Puddings and Nonspecific Loaves

3. A new § 319.281 is added to Part 319 to read as follows and the Table of Contents to Part 319 is amended to reflect this new heading:

§ 319.281 Bockwurst.

(a) Bockwurst is an uncured, comminuted meat food product which may or may not be cooked. It contains meat, milk or water or a combination thereof, eggs, vegetables, and any of the optional ingredients listed in paragraph (b) of this section; and is prepared in accordance with the provisions of paragraph (a) (1), (2), (3), and (4) of this section.

(1) Meat shall constitute not less than 70 percent of the total weight of the product and shall consist of pork or a mixture of pork and veal, pork and beef, or pork, veal, and beef. Such meat shall be fresh or fresh frozen meat.

(2) The "milk" may be fresh whole milk, dried milk, nonfat dry milk, calcium reduced dried skim milk, or any combination thereof.

(3) "Eggs" refer to whole eggs that are fresh, frozen, or dried.

(4) "Vegetables" refer to onions, chives, parsley, and leeks, alone or in any combination.

(b) Bockwurst may contain one or more of the following optional ingredients:

(1) Pork fat.
(2) Celery, fresh or dehydrated.
(3) Spices, flavorings.
(4) Salt.
(5) Egg whites, fresh, frozen, or dried.
(6) Corn syrup solids, corn syrup, or glucose syrup with a maximum limit of 2 percent individually or collectively, calculated on a dry basis. The maximum quantities of such ingredients shall be computed on the basis of the total weight of the ingredients.
(7) Autolyzed yeast extract, hydrolyzed plant protein, milk protein hydrolysate, and monosodium glutamate.
(8) Sugars (sucrose and dextrose).
(9) Cereal, bread, vegetable starch, starchy vegetable flour, soy flour, soy protein concentrate, and isolated soy protein, provided such ingredients, individually or collectively, do not exceed 3½ percent of total weight of all the ingredients, except that 2 percent of isolated soy protein shall be deemed to be the equivalent of 3½ percent of any one or more of the other ingredients permitted in this subparagraph. Bockwurst containing any of the ingredients permitted by this subparagraph shall be labeled in accordance with § 317.8(b) (33) of this subchapter.

(c) If bockwurst is cooked or partially cooked, the composition of the raw mix from which it is prepared shall be used in determining whether it meets the requirements of this section.

(Sec. 21, 34 Stat. 1260, as amended, 21 U.S.C. 621; 37 FR 28464, 28477)

It does not appear that further public participation and rulemaking proceedings on these amendments would make additional information available to the Department which would substantially affect this matter. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that further notice or other public rulemaking proceedings on these amendments are impracticable and unnecessary.

The foregoing amendments shall become effective June 2, 1975.

Done at Washington, D.C., on: April 23, 1975.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.75-11168 Filed 4-28-75;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Limitation on Use of Propane and Butane for Refinery Fuel

On December 19, 1974, the Federal Energy Administration issued an emergency amendment to the Mandatory Petroleum Allocation Regulations (39 FR 44405, December 24, 1974) which, among other things, restricted the amount of propane and butane which a refiner could use for refinery fuel without FEA approval. No comment period was afforded prior to the effective date of the amendment but written comments were invited and a public hearing was held on January 9, 1975. Fifteen written comments were received and ten firms made oral presentations at the public hearing.

In view of the comments received and FEA's analysis of the impact of the refinery fuel limitations since December 19, FEA has decided to revoke those portions of the December 19 amendment which place a limit on the use of the propane and butane content of natural gas liquids and refinery gas used for refinery fuel. The limitation on the use of propane and butane subject to allocation under Subparts D and E for refinery fuel is, however, retained.

In analyzing the impact of the December 19 amendment, FEA found that to the extent natural gas curtailments exceed the curtailment imposed during the base period (thereby necessitating use of greater volumes of propane and butane as alternative fuels), the restrictions placed on refineries by the amendment could result in plant production decline and shut-down as natural gas supplies are curtailed beyond base period experience. Also, the amendment would result in decreased refinery throughout if a change in production methods or output mix resulted in either greater need for refinery fuel or greater production of propane and butane contained in refinery fuel as a consequence of the refining process. Furthermore, lack of propane and butane stripping facilities at several refineries made the limitations imposed by the amendment unduly restrictive. Finally, since the amendment restricted all propane and butane used for refinery fuel regardless of whether it is non-specification grade, a refinery might have had to curtail production so as not to exceed the use limitation (or else flare the product) to the extent non-specification grade propane and butane production exceeds that of the base period.

The revocation of certain parts of the December 19 amendment should not be construed as evidence of a lessening interest on FEA's part that propane and butane not be utilized for refinery fuel. As will be noted in the Policy Statement which follows, FEA retains its concern that traditional users of propane and butane other than refineries be afforded adequate supplies of these products including those new propane and butane users other than refineries who, primarily because of natural gas curtailments, are faced for the first time with a need for propane and butane as alternative fuels where no substitute for a gaseous fuel is feasible.

The amendment issued today excludes the propane and butane content of natural gas liquids and refinery gas from the refinery fuel use limitation but retains the limitation for synthetic natural gas feedstock use, gas utility use or any industrial use other than refinery fuel use. The limitation on refinery fuel use of commercial grade propane and butane will remain the same as for other industrial uses—100 percent of base period use except for purposes of increasing inventories as permitted by §§ 211.86(g) and 211.96(e). Finally, conforming changes have been made in the definitions of "propane" and "butane" in § 211.51.

STATEMENT OF POLICY REGARDING USE OF PROPANE AND BUTANE FOR REFINERY FUEL

FEA strongly favors those measures designed to maximize propane and butane supplies to meet the increased needs of traditional users (excluding refineries) and to meet the needs of users (excluding refineries) who, primarily because of natural gas curtailments, are faced for the first time with a need for commercial grade propane and butane as alternative fuels where no substitute for a gaseous fuel is feasible. These users of commercial propane and butane must not be deprived of these products through the diversion of the propane/butane content of natural gas liquids and refinery gas into refinery fuel prior to the stage at which commercial propane and butane is extracted. Consequently, FEA will be sensitive to decreasing yields of commercial propane and butane by refiners following today's exclusion of the propane/butane content of natural gas liquids and refinery gas from the refinery fuel use limitation.

FEA will continue to limit the use of commercial grade propane and butane for refinery fuel. A refiner is entitled to receive one hundred (100) percent of its base period use of commercial propane and butane and in addition may accumulate in inventory up to one hundred twenty (120) percent of the volumes used during the base period. These provisions are the same as those applicable to all other industrial users, including petrochemical producers. By including refiners within these limits on use and accumulation, FEA intends that no refiner shall use commercial grade propane and butane disproportionately to other firms who look to the refiner as their supplier of propane and butane. This limitation has the effect of limiting the use by refiners of surplus commercial propane and butane unless FEA approval is obtained.

There is ample evidence that natural gas curtailments will increase during the years ahead. FEA believes all industrial users of natural gas should be taking immediate steps to convert their natural gas energy systems to liquid- or solid-fueled systems. FEA strongly discourages plans to convert from natural gas to propane or butane systems except where a gaseous fuel is technically the only alternative fuel source. Refineries are in a unique position to make use of liquid-fueled energy systems because of the ready availability of such products at refineries and because they can convert to use of these fuels.

FEA will closely monitor the demand/supply situation for propane and butane during the months ahead. If conditions so warrant, FEA will propose a rulemaking which will reimpose the limitations on the use of the propane and butane content of natural gas liquids and refinery gas for refinery fuel. As part of such rulemaking, FEA may propose that no relief be granted to a refinery from the limitations unless there is evidence that the refinery is converting to non-gaseous fuels to operate its energy systems. The fact that propane and butane are less expensive refinery fuels than liquid petroleum alternatives will not be considered to be an adequate reason for deterring reimposition of the limitations on the use of the propane and butane content of natural gas liquids and refinery gas for refinery fuel.

FEA may also propose other measures to insure adequate supplies of propane and butane for traditional and new uses. FEA will welcome comments during the coming months regarding other approaches to achieve the goals set forth in this statement. Comments should be submitted to Executive Communications, Room 3309, Federal Energy Administration, 12th and Pennsylvania Avenue, NW., Box CX, Washington, D.C. 20461 and should be marked: "For allocation Regulation Development, Office of Regulatory Programs; Refinery Fuel Use Limitations." There is no deadline for submitting such comments.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended by Pub. L. 93-511; Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790 (39 FR 23185)).

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below, effective May 1, 1975.

Issued in Washington, D.C., April 24, 1975.

ROBERT E. MONTGOMERY, Jr.,
General Counsel,
Federal Energy Administration.

1. Section 211.10 is amended by revising paragraph (g)(8) to read as follows:

§ 211.10 Supplier's method of allocation.

* * * * *

(g) *Allocation fractions greater than one.* * * *

(8) *Limitation on purchaser's rights including special restrictions on propane and butane.* (i) Unless directed by FEA no supplier shall supply and no end-user or wholesale purchaser-consumer shall accept quantities of an allocated product which exceed one hundred (100) percent of the end-user's or wholesale purchaser-consumer's current requirements, *provided,* That (A) no supplier shall supply and no end-user or wholesale purchaser-consumer shall accept or use quantities of propane or butane (including the propane and butane content of natural gas liquids and refinery gas) in excess of one hundred (100) percent of base period use for synthetic natural gas feedstock use, gas utility use or any industrial use (other than for refinery fuel use) except for the purpose of increasing inventories for such uses to the levels allowed under § 211.86(g) or § 211.96(e), and *provided further,* That (B) no supplier shall supply and no end-user or wholesale purchaser-consumer shall accept or use quantities of propane or butane (excluding the propane and butane content of natural gas liquids and refinery gas) in excess of one hundred (100) percent of base period use for refinery fuel use, except for the purpose of increasing inventories for such use to the levels allowed under § 211.86(g) or § 211.96(e).

(ii) Suppliers and wholesale purchasers shall comply with § 211.87 and § 211.97 in the purchase of surplus propane and butane.

* * * * *

2. Section 211.51 is amended by revising the definitions of "butane" and "propane" to read as follows:

§ 211.51 Definitions.

* * * * *

"Butane" means the chemical C_4H_{10} in its commercial forms, including (a) both normal butane and iso-butane and mixtures of these two isomers; (b) propane-butane mixes containing ten (10) percent by weight or less of propane; and (c) other mixtures containing ten (10) percent by weight or less of propane but containing ten (10) percent by weight or more of butane. Excluded from the definition are mixtures containing butane (other than propane-butane mixes) when such mixtures are used for refinery fuel use.

* * * * *

"Propane" means the chemical C_3H_8 in its commercial form including propane-butane mixes and other mixtures in which propane constitutes greater than ten (10) percent of the mixture by weight. Excluded from the definition are mixtures containing propane (other than propane-butane mixes) when such mixtures are used for refinery fuel use.

* * * * *

[FR Doc.75-11208 Filed 4-25-75;8:45 am]

Title 13—Business Credit and Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 302—DESIGNATION OF AREAS

Grant and Loan Program

Part 302 of Chapter III of Title 13 of the Code of Federal Regulations is hereby amended.

In that the material contained herein is a matter relating to the grant and loan program of the Economic Development Administration and because a delay in implementing these regulations would be contrary to the public interest, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 533) requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date are inapplicable.

The purpose of this amendment is to make a technical change in EDA's designation under the Community Services Act of 1974.

1. Section 302.9 is revised to read as follows:

§ 302.9 Standards for recognition of redevelopment areas designated under the Community Services Act of 1974.

Areas selected for assistance under 742(b)(1), of the Community Services Act of 1974 will be deemed redevelopment areas within the meaning of section 401 of the Public Works and Economic Development Act of 1965, and shall qualify for assistance under the provisions of Title I and Title II of that Act, and shall be deemed to have met the overall economic development program requirements of section 202(b)(10) of such Act.

(Sec. 701, Pub. L. 89-136 (August 26, 1965); (42 U.S.C. 3211); 79 Stat. 570 and Department of Commerce Organization Order 10-4, April 1, 1970 (35 FR 5970))

Effective date. This regulation becomes effective on April 29, 1975.

Dated: April 22, 1975.

WILMER D. MIZELL,
Assistant Secretary
For Economic Development.

[FR Doc.75-11184 Filed 4-28-75;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 75-CE-11-AD; Amdt. 39-2100]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Model 18 Airplanes

AD 72-20-5 (Amendment 39-1526), as amended by Amendment 39-1632 and AD 73-18-4 (Amendment 39-1708) are Airworthiness Directives (AD) applicable to Beech Model 18 series airplanes which require repetitive inspections and modifications to the center section truss wing spar prior to May 1, 1975, and the outer wing panel prior to September 10, 1975. As a result of these inspections, service history, subsequent evaluations, analysis of X-rays and the aircraft structure, the FAA has determined that the airframe wing structure is life limited and is issuing a notice of proposed rule making (NPRM) that would establish a safe life limit for the basic wing structure of these aircraft. In the interim to assure the continued airworthiness of these aircraft pending development of a final rule under the NPRM, this AD is being issued applicable to all Beech Model 18 series airplanes. The AD includes those aircraft which have accumulated or subsequently accumulate 1,500 hours' time in service since the x-ray submissions required by ADs 72-20-5 and 73-18-4 as well as those aircraft not previously covered. It will require inspections of the elliptical front spar lower cap of the wing center section, outer wing panel and the upper spar cap at station 90 for the detection of cracks and the submission of X-rays to the manufacturer for evaluation.

Since a situation exists which requires expeditious adoption of the amendment, notice and public procedure hereon are impracticable and good cause exists for making the amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD.

BEECH. Applies to all Beech 18 series airplanes including all military counterparts thereof and those Beech Model 18 airplanes modified in accordance with Supplemental Type Certificates.

To prevent possible wing failure, in order to detect cracks in the elliptical front spar lower cap of the wing center section, outer wing panel and upper spar cap at station 90:

(a) For those aircraft to which ADs 72–20–5 and 73–18–4 were applicable, within 1,550 hours' time in service since the last X-ray submission for evaluation or within 50 hours' time in service after the effective date of this AD, whichever occurs later, and

(b) On all other aircraft for which X-rays have not been submitted for evaluation, within 50 hours' time in service after the effective date of this AD, accomplish the following:

A. Unless previously modified, modify the lower wing skin in accordance with Figure (1) or Figure (2) of an FAA-approved equivalent to facilitate the inspections specified in Paragraph B.

B. (1) Inspect the front spar lower cap of the wing center section and outer wing panel on each side of the airplane by methods specified below, including inspection sites reinforced by Beech Aircraft Corporation Kits 18–4024, 791 or 792:

Wing station	Site (see fig. 3)	Method (see para. C)
90 (upper and lower spar cap).	Tips of welds at clevis tangs, upper and lower surfaces of cap.	Visual, X-ray and either magnetic particle or penetrant.
81, 73, 64, and 57.	Tips of welds at gussets, upper surface of cap.	Do.
46	Outboard ends of splice in cap, upper and lower surface of cap.	Do.
32	Tips of welds at wing splice plate, fore and aft surfaces of cap.	Do.
45 to 43	Tip of weld around cluster upper surface of cap.	Do.
61	Lower surface of spar cap below tube cluster, as seen from wheel well.	Do.
102 and 111	Tips of the weld as shown in figs. 5 and 6.	Do.

(2) Temporarily move clamps and other equipment as necessary to eliminate interference with the above inspections. Removal of spar cap finish is not necessary.

(3) Flex the wing when specified by Paragraph C by applying and relieving a 75 to 100 pound upward force at or near the wing tip on the (left or right) side being inspected. This may be done by hand.

(4) Load the wing on the side being inspected when specified by Paragraph C by applying 75 to 100 pound upward force at the junction of wing rib number 10 and the front spar. Place material such as lumber under and along the number 10 rib so as to distribute the force.

C. (1) Accomplish visual inspection before and after cleaning, and while the wing is being flexed. Use a flashlight or other illumination and a low power magnifying device.

(2) When the magnetic particle method is chosen, conduct the inspection while the wing is either flexed or loaded. Conduct the inspection before magnetism is induced and again while magnetism across the inspection site is induced by a Magnaflux Corp. Model Y–5 or YM–5 yoke or when any equivalent is used in accordance with the manufacturer's instructions.

(3) When the penetrant method is chosen, perform the inspection while the wing is being flexed. Use either dye or fluorescent materials in accordance with the penetrant manufacturer's instructions.

(4) For each site where X-ray inspection is specified by Paragraph B, accomplish X-ray inspection while the wing is loaded. Figures 4, 5 and 6 are aids to the following instruction. Place fine grain film (such as GAF 800, Dupont NDT–65 or Kodak AA) sandwiched between lead screens of 0.005 inch thickness on the upper surface of the spar cap (over an inspection site) with identification symbols for at least the site (e.g. LWS 81, RWS 81, etc.), date, and airplane registration number. Proper identification of the inspection site is critical to the evaluation of the X-rays. The left side of the aircraft (left wing) is the side to the left of the pilot when facing forward. For upper wing station 90, the plate is to be placed on the lower surface of the upper spar cap with the X-ray source located approximately 36 inches above the wing. Secure a steel penetrameter of 0.005 inch thickness to the lower surface of the spar cap at a location clear of the inspection site. Position the X-ray source approximately 36 inches from and generally below the film so that the center of the X-ray beam will be perpendicular to the major axis of the elliptical spar cap and perpendicular to the spanwise centerline of the spar cap at each inspection site. Use a flashlight and a protractor level as necessary to see that aiming of the X-ray beam compensates for wing dihedral and nose up attitude. At those areas covered by aluminum skin, a locally fabricated jig may be used to position the X-ray source. Expose film so that density of the radiograph of the spar cap material near the inspection site is 1.5 to 2.8 on the densitometer or National Bureau of Standards density scale. View film to see that the inspection site, the 0.010 inch diameter hole in the penetrameter, and its entire outline are plainly shown. Using a low power magnifying device, examine the inspection site portion of each radiograph for faint indications of cracks in spar cap material transverse to the spanwise centerline.

D. On those aircraft modified by incorporating STC SA895SW, SA962EA, SA1192WE, SA1533WE, SA832SW, SA643CE, SA3009WE, SA3010WE, SA814SO, SA1582SW, SA2000WE, or any other such modification approved by the Chief, Engineering and Manufacturing Branch/Division, FAA, prior to performing the inspections required by Paragraphs B and C, remove the strap assemblies in accordance with procedures specified by the manufacturer or STC holders as applicable and inspect all components of the strap assembly for defects such as cracks, corrosion, fretting, etc. If defects are found in these components as a result of any such inspections, prior to further flight, replace the defective components with new airworthy parts.

E. Upon completion of the above inspections within 48 hours transmit, by most rapid means, copies of all the X-rays to Beech Aircraft Corporation, Wichita, Kansas 67201. Evaluation of the inspection facility findings will be transmitted to the sender by Beech Aircraft Corporation.

F. If a crack is found as a result of inspections required by Paragraphs B and C of this AD, the aircraft shall not be returned to service until authorized in writing by the Chief, Engineering and Manufacturing Branch, FAA, Central Region. In addition, written notification must be sent to the Chief, Engineering and Manufacturing Branch, FAA, Central Region, stating the location and length of any cracks discovered during inspections required by this AD, and the total operating time of the airplane at the time of the discovery. (Reporting approved by the Office of the Management and Budget under OMB No. 04–R0174.)

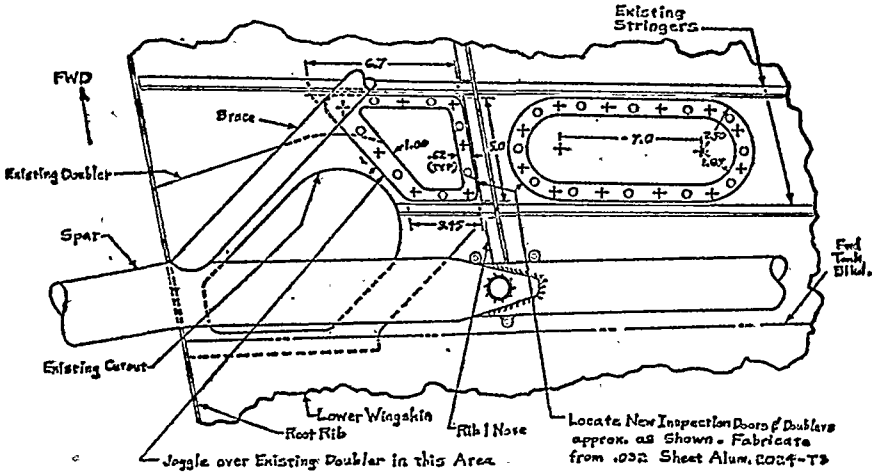
Currently effective Beech Aircraft Corporation's Service Bulletins 64–35, 64–16, 64–17, and 66–10 and MIL–STD–453 consider this subject, but this AD takes precedence in any conflicting detail.

This amendment becomes effective May 1, 1975.

(Secs. 313(a), 601 and 603 Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423), sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Kansas City, Missouri, on April 17, 1975.

C. R. MELUGIN, Jr.,
Director, Central Region.

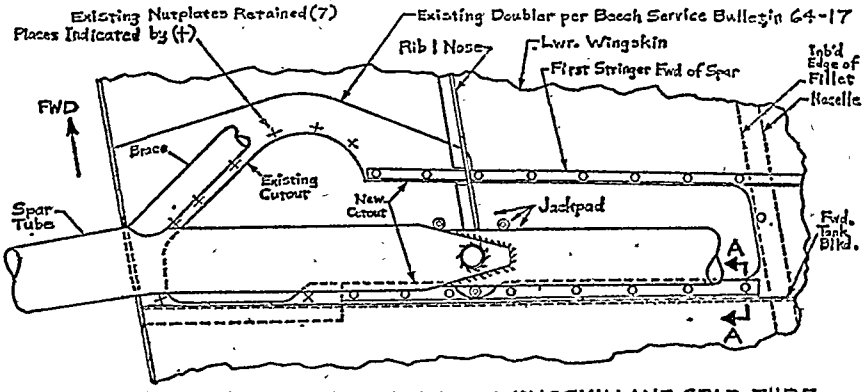


OPERATIONS:
Drill #10(.200/.193) hole thru new doors, wingskin & doublers as shown by (O) 19 places (approx. 24" spaces).
Attach (19) nutplates to doublers with countersunk AD3 rivets. (MK1000-3 Nutplates Recommended).
Attach doublers to skin with AD4 rivers shown by (+) 19 places (approx. 2.4" spaces).
Install doors on lower side with #10 screws 19 places.

R.H. Wing Shown - LH. Opposite

VIEW LOOKING DOWN ON LOWER WINGSKIN & SPAR
(Upper Wingskin Omitted for Clarity)

FIGURE 1



VIEW LOOKING DOWN ON LOWER WINGSKIN AND SPAR TUBE

by Bob Grober

Attach MK1000-3 Nutplates (or equiv.) (17 places) as shown by (O). Cut inspection door from .032 2024-T3 Alum. Allow 1/2" edge margin around all screws (min). Install door on lower side with #10 screws (25 places); cut three holes for jackpad access. Inspection door not shown.

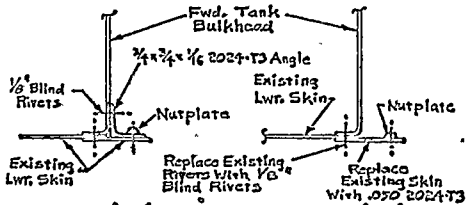
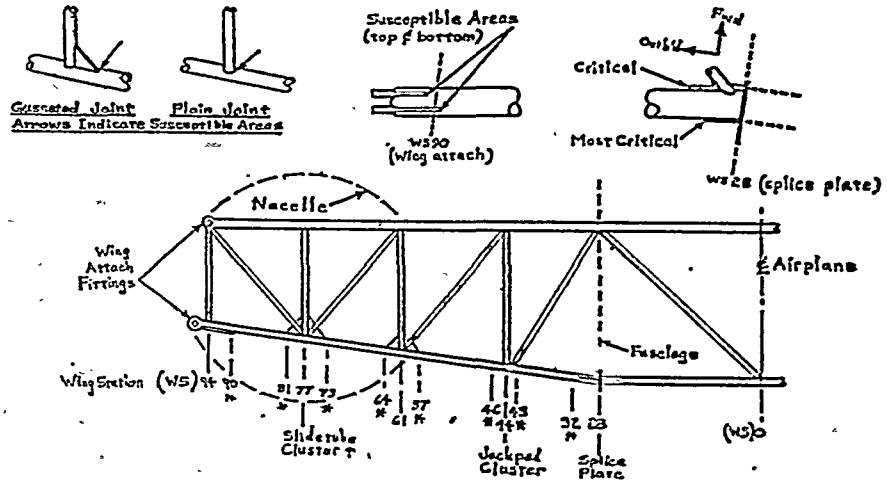


FIGURE 2

VIEW A-A

VIEW A-A

OPTIONAL MEANS OF ATTACHING INSPECTION PLATE AFT EDGE



Half of Main Spar Center Section Truss

* INDICATES AREAS TO BE INSPECTED PER THIS A.D.
† SEE AD 64-21-1, part(b) and AD64-21-3, part(b).

FIGURE 3

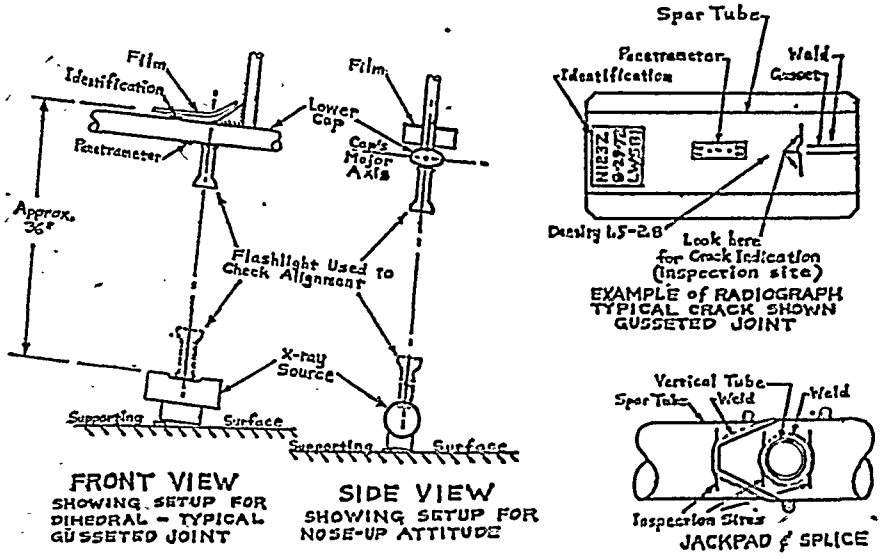
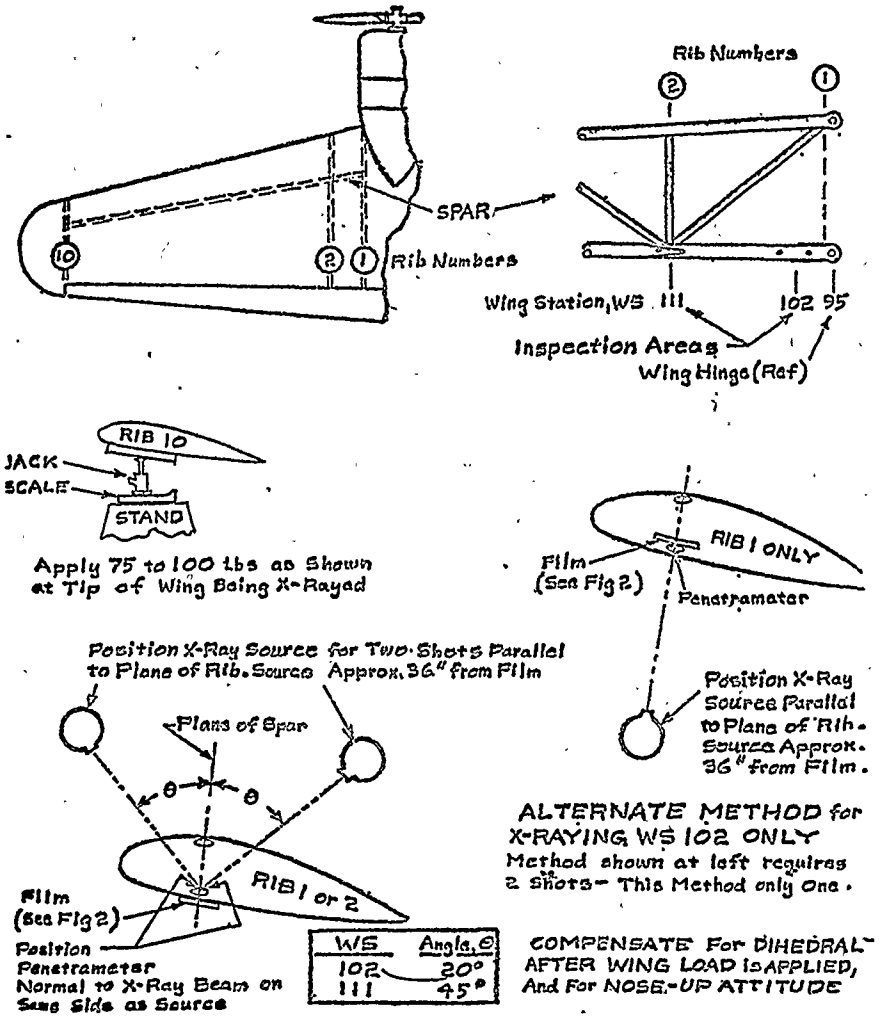


FIGURE 4

FIGURE 5

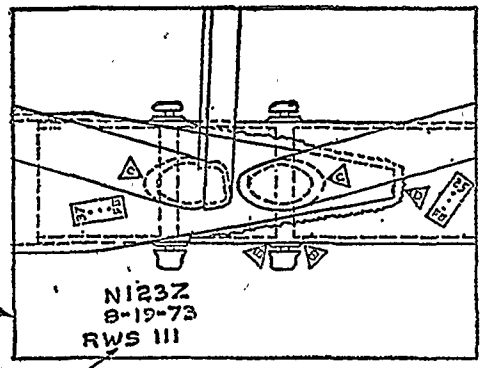


WS	Angle, θ
102	20°
111	45°

FIGURE 6

EXAMPLE of X-RAY FILM at WS 111

Double Film to Accomodate 0.166" & 0.356" Thickness Spar Cap Material. KODAK AA & M or Equivalent.



Required Identification

Required Penetrameter

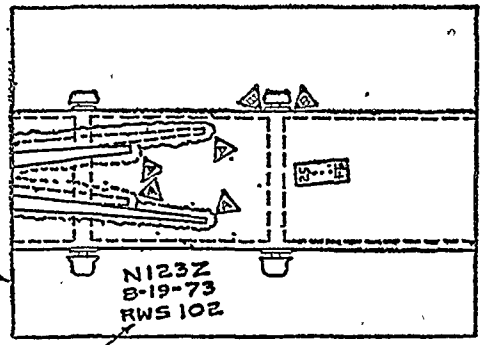
Size	Hole Dia.
25	.005
	.010
FE	.020
37	.007
	.014
FE	.028

LEGEND of INSPECTION SITES

SYMBOL	DESCRIPTION	NO. of SITES/WING
◁	Tips of Tang Welds, Top & Bottom of Spar Tube	4
◁	Edges of Thru-Bolt Tube Welds	16
◁	Edges of Diagonal Brace Welds	2
◁	Tips of 'Fishmouth' Splice Welds, Top & Bottom of Spar Tube	2

EXAMPLE of X-RAY FILM at WS 102

Single Film for 0.19" Thickness Spar Cap Material. KODAK AA or M or Equivalent



Required Identification

[FR Doc.75-10971 Filed 4-28-75;8:45 am]

[Airspace Docket No. 75-EA-15]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

Correction

In FR Doc. 75-10518 appearing on page 17836 in the issue of Wednesday, April 23, 1975, in the third column, first amendatory paragraph, fifteenth line, the figures reading "78°52'60"" should read "78°52'00"".

[Airspace Docket No. 75-NE-7]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of VOR Federal Airways

On March 5, 1975, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (40 FR 10194) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would:

1. Extend V-39 from Gardner, Mass., to Chester, Mass.
2. Alter V-58 between Ellenville, N.Y., Intersection and Hartford, Conn.
3. Revoke V-146 between Pawling, N.Y., and Putnam, Conn.
4. Revoke the 4-mile segment of V-433 north of V-167.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 14, 1975, as hereinafter set forth.

Section 71.123 (40 FR 307, 39 FR 40848) is amended as follows:

1. In V-39 "From Gardner, Mass., Concord, N.H.;" is deleted and "From Chester, Mass.; Gardner, Mass.; Concord, N.H.;" is substituted therefor.

2. In V-58 "Pawling, N.Y.; Hartford, Conn.;" is deleted and "INT Lake Henry 078° and Kingston, N.Y., 274° radials; Kingston; INT Kingston 100° and Hartford, Conn., 268° radials; Hartford;" is substituted therefor.

3. In V-146 "Pawling, N.Y.," is deleted.

4. In V-433 "INT Bridgeport 015° and Hartford, Conn., 280° radials" is deleted and "INT Bridgeport 015° and Hartford, Conn., 268° radials" is substituted therefor.

(Sec. 307(a); Federal Aviation Act of 1958, (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Washington, D.C., on April 22, 1975.

F. L. CUNNINGHAM,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.75-11181 Filed 4-28-75;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 18—MILK AND CREAM

Order Staying Sour Cream Dressing Standard and Confirming Certain Related Standards

The Commissioner of Food and Drugs is staying, pending a public hearing, the effective date of the standard of identity for sour cream dressings (21 CFR 18.570) and confirming the effective date for standards of certain other related products.

In the FEDERAL REGISTER of May 7, 1974 (39 FR 15993), the Commissioner issued an order establishing additional standards of identity for sour cream, sour half-and-half, and related products in 21 CFR Part 18.

The order provided that any person who would be adversely affected could at any time on or before June 6, 1974, file written objections to the order and, if desired, request a hearing on the specific provisions objected to.

One response was filed objecting to specific provisions of the order and requesting a public hearing. This response was filed by a food manufacturer who objected to adoption of the standard of identity for sour cream dressing, § 18.570, asserting that the firm markets a line of pourable dressings with which it has established a strong market position and that, for reasons stated in the response, the firm will be adversely affected if § 18.570 is adoptd as ordered.

The Commissioner has carefully considered the objection and finds that it raises a substantial issue of fact that warrants a public hearing. Pursuant to section 701(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(e)), the Commissioner hereby announces that those provisions of the May 7, 1974 order that established a standard of identity for sour cream dressing, § 18.570, are stayed by the objection filed, pending a public hearing that is to be included in the public hearing on certain provisions of the standards of identity for milk and cream (21 CFR Part 18) as announced in the FEDERAL REGISTER of December 5, 1974 (39 FR 42351). A date for this public hearing has not yet been set. In the meantime, compliance with stayed § 18.570 will be permitted even though such compliance is not required.

No objections were received to the other provisions of the May 7, 1974 order, which established standards of identity for sour cream (§ 18.550), acidified sour cream (§ 18.555), sour half-and-half (§ 18.560), acidified sour half-and-half (§ 18.565), and sour half-and-half dressing (§ 18.575). Due to the delay in promulgating this order and in the interest of fairness, the Commissioner concludes that the date for mandatory compliance with these regulations should be extended.

Therefore, the effective date of these regulations is confirmed as follows: Compliance with the order of May 7, 1974, including any labeling changes required, may have begun on July 8, 1974, and all products shipped in interstate commerce after June 30, 1975 shall comply with the regulations, except for § 18.570 which is stayed by this order.

(Secs. 401, 701, 52 Stat. 1046, 1055-1056, as amended, 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 341, 371).)

Dated: April 22, 1975.

WILLIAM F. RANDOLPH,
Acting Association Commissioner for Compliance.

[FR Doc.75-11111 Filed 4-23-75;8:45 am]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 522—IMPLANTATION OR INJECTIBLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Prednisolone Sodium Phosphate

The Commissioner of Food and Drugs has evaluated a new animal drug application (98-288V) filed by Anthony Veterinary Products Co., El Monte, CA 91732, proposing safe and effective use of prednisolone sodium phosphate injection for rapid glucocorticoid and/or anti-inflammatory treatment of dogs. The application is approved; effective April 29, 1975.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 522 (formerly 135b prior to recodification published in the FEDERAL REGISTER of March 27, 1975 (40 FR 13802)) is amended by adding § 522.1883 to read as follows:

§ 522.1883 Prednisolone sodium phosphate injection, sterile.

(a) *Specifications.* Each milliliter contains 20 milligrams of prednisolone sodium phosphate (equivalent to 14.83 milligrams of prednisolone) in sterile aqueous solution.

(b) *Sponsor.* See No. 000864 in § 510.600(c) of this chapter.

(c) *Conditions of use.* (1) It is used in the treatment of dogs when a rapid adrenal gulcocorticoid and/or anti-inflammatory effect is necessary.

(2) It is administered intravenously in a dosage a 2½ to 5 milligrams of prednisolone sodium phosphate per pound of body weight, initially for shock and shock-like states, followed by equal maintenance doses at 1, 3, 6, or 10 hour intervals as determined by the condition of the animal. If permanent use is required, oral therapy (tablets) may be substituted. If therapy is to be withdrawn after prolonged use, reduce daily dose gradually over a number of days.

(3) Do not use in viral infections. Except in emergency therapy, do not use with tuberculosis, chronic nephritis,

Cushing's disease, or peptic ulcers. With infections, use appropriate antibacterial therapy with, and for at least 3 days after, discontinuance of use and disappearance of all signs of infection.

(4) Clinical and experimental data have demonstrated that corticosteroids administered orally or parenterally to animals may induce the first stage of parturition when administered during the last trimester of pregnancy and may precipitate premature parturition followed by dystocia, fetal death, retained placenta, and metritis.

(5) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This order shall be effective on April 29, 1975.

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i).)

Dated: April 18, 1975.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.75-11112 Filed 4-28-75;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-310]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities; Correction

On July 12, 1974, in 39 FR 25649, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Hazard Boundary Maps were available for public inspection. This list included the City of Davenport, Scott County, Iowa, as an eligible community and included Map No. H 190242 11 which indicates that Lot 9 of Imperial Park East Subdivision, 3119 Jersey Ridge Road, Davenport, Iowa, as recorded in Plat Book "D", Page 3, Section 19-78-4 in the office of the County Auditor of Scott County, Iowa, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the structure on the above property is not within the Special Flood Hazard Area. Accordingly, effective June 21, 1974, Map No. H 190242 11 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: April 14, 1975.

J. ROBERT HUNTER,
Acting Federal
Insurance Administrator.

[FR Doc.75-11138 Filed 4-28-75;8:45 am]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities; Correction

On January 8, 1973, in 38 FR 1011, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Insurance Rate Maps were available for public inspection. This list included the City of Tulsa, Oklahoma, as an eligible community and included Map No. H 405381 16, which indicates that Lots No. 1, 2, 3, and 4 of Block No. 1 of the subdivision called Young Plaza Second, Tulsa, Oklahoma, as recorded in Plat Number 3377, in the office of the County Clerk of Tulsa County, Oklahoma, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above properties are within Zone C, and are not within the Special Flood Hazard Area. Accordingly, effective August 17, 1971, Map No. H 405381 16, is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: April 14, 1975.

J. ROBERT HUNTER,
Acting Federal
Insurance Administrator.

[FR Doc.75-11139 Filed 4-28-75;8:45 am]

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 350-1]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Puerto Rico: Approval of Compliance Schedules

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator of the Environmental Protection Agency approved the implementation plan submitted by the Commonwealth of Puerto Rico for attainment and maintenance of national ambient air quality standards. On September 10, December 6, 1973, February 7, June 11 and September 6, 1974, proposed revisions to the approved plan were submitted by Puerto Rico in the form of compliance schedules covering sources located in the Commonwealth. Set forth below are regulations approving twenty-seven of these compliance schedules.

These compliance schedules were adopted by Puerto Rico after notice and public hearings in conformity with the requirements of 40 CFR 51.4, 51.6 and 51.15 as certified by supporting documents submitted by the Puerto Rico Environmental Quality Board. The Regional Administrator determined that these schedules could not be approved as originally submitted by the Commonwealth and requested that additional information be supplied relating to the technical validity of the abatement measures adopted, to the procedures employed in adoption of these schedules by the Commonwealth, and to the enforceability of their terms. This information was received by EPA on February 1 and 12, March 13, 15, and 20, June 11 and September 6, 1974. The Regional Administrator thereupon found these schedules to be approvable as consistent with the requirements of the Clean Air Act, 40 CFR Part 51, and Puerto Rico's approved control strategies. The Regional Administrator therefore proposed approval of these schedules in the FEDERAL REGISTER of December 17, 1974 (39 FR 43640). The comments of interested persons were invited during the thirty-day period following publication of this proposed rulemaking. No comments were received, and the thirty-day period established in the FEDERAL REGISTER of December 17, 1974 has since expired.

The date indicated for final compliance in many of these schedules will have passed by the time of their final approval. This fact is attributable to delays occasioned by the necessity of ministering to infirmities existing in the schedules at the time of their initial submission.

This is considered appropriate inasmuch as each schedule reflects the consensus of EPA and the Puerto Rico Environmental Quality Board as to the abatement actions to be taken, and the date by which compliance should be achieved.

Each of these schedules established a new date by which the source involved must comply with the applicable emission limitation provisions of the federally-approved state implementation plan. This date is indicated in the table below, under the heading "Final Compliance Date". In no case does this compliance date fall beyond the April 30, 1975 date established in Puerto Rico's implementation plan for attainment of relevant ambient air quality standards, nor is relaxation of any emission limitation involved. Achievement of ambient

air quality standards by the attainment date is therefore not jeopardized by approval of these schedules.

In many cases, the schedule includes incremental steps toward compliance, with specific dates set for achieving these steps. While the table below does not list these interim dates, the actual compliance schedules do. The entry "Immediately" under the heading "Effective Date" means that the schedule, including any interim dates, becomes federally-enforceable upon its approval by the Administrator. Copies of the schedules and the state implementation plan are available for public inspection at the following locations:

U.S. Environmental Protection Agency
Air Facilities Branch
Region II
26 Federal Plaza
New York, New York 10007

Environmental Quality Board
1550 Ponce de Leon Avenue
Santurce, Puerto Rico 00910

U.S. Environmental Protection Agency
Freedom of Information Center
401 M Street, SW.
Washington, D.C. 20460

An evaluation of any of the schedules can be obtained by consulting the staff of the Agency's Region II Air Facilities Branch at the New York address given above.

The Administrator has determined that all the schedules given here satisfy the requirements of 40 CFR Part 51 pertaining to plan revisions and compliance schedules, and that their approval will not hinder the attainment and maintenance of the national ambient air quality standards. Accordingly, they are hereby approved as revisions to the state implementation plan pursuant to § 110 of the Clean Air Act and 40 CFR 51.8.

This action is effective immediately. The Administrator finds that good cause exists for making his approval action immediately effective since these schedules are already in effect under local law in the Commonwealth of Puerto Rico and the Agency's action imposes no additional regulatory burden on affected facilities.

(Sec. 110(a), Clean Air Act (42 U.S.C. 1857c-5(a)))

Dated: April 23, 1975.

RUSSELL E. TRAIN,
Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart BBB—Puerto Rico

1. Section 52.2720 is amended by revising paragraph (c) as follows:

§ 52.2720 Identification of plan.

* * * * *

(c) Supplemental information was submitted by the Commonwealth of Puerto Rico Environmental Quality Board on:

(1) April 5, 9 and 17, May 30, June 18, and September 10, 1973, and on February 1 and 12, 1974.

(2) December 6, 1973, and on February 7, March 13, 15 and 20, June 11 and September 6, 1974.

2. Section 52.2724 is amended by adding thereto, at paragraph (a), a list of compliance schedules as follows:

§ 52.2724 Compliance schedules.

* * * * *

(a) * * *

Source	Location	Regulations involved	Date of adoption	Effective date	Final compliance date
*	*	*	*	*	*
Union Carbide Grafito, Inc	Yabucoa	5.1; 5.2	Feb. 22, 1974	Immediately	June 30, 1974
Hormigonera Mayaguezana	San Sebastian	5.1; 5.2	Aug. 3, 1973	do	Sept. 30, 1973
Do	Yauco	5.1; 5.2	do	do	Do.
Do	San German	5.1; 5.2	do	do	Do.
Do	Cabo Rojo	5.1; 5.2	do	do	Do.
Do	Mayaguez	5.1; 5.2	do	do	Do.
Do	Anasco	5.1; 5.2	do	do	Do.
San Juan Cement Company, Inc	Dorado	5.1; 5.2; 5.5	Feb. 22, 1974	do	July 31, 1974
Rexach Concrete Corp	Bayamon	5.1; 5.2	do	do	June 1, 1973
Puerto Rico Chemical Corp	Arecibo	7.1	Jan. 23, 1974	do	June 1, 1974
Rexach Asphalt Corp	Rio Piedras	5.1; 5.2; 5.5	May 29, 1974	do	Nov. 15, 1974
Sabari Estates, Inc	Ponce	5.1; 5.2; 5.5	Feb. 22, 1974	do	Feb. 23, 1974
Ramos Hermanos, Inc	Bayamon	5.1; 5.2; 5.5	do	do	Sept. 25, 1973
Terrazos Poncenos	Ponce	5.1; 5.5; 5.2	Sept. 21, 1973	do	June 6, 1973
Ponce Ready-Mix, Inc	do	5.1; 5.2	Feb. 22, 1974	do	Aug. 30, 1973
Ready Mix Concrete, Inc	Carolina	5.1; 5.2; 5.5	do	do	Sept. 15, 1973
Illumination Products, Inc	Hato Rey	5.5; 7.4; 8	May 29, 1974	do	Jan. 31, 1974
Coop. Cafeteros de Ponce	Ponce	5.1; 5.2; 5.5	Feb. 22, 1974	do	May 31, 1974
Conrado Forestier, Inc	Mayaguez	5.1; 5.2; 5.5	Aug. 3, 1973	do	Aug. 31, 1973
Best Contracting Corp	Rio Piedras	5.1; 5.2; 5.5	Feb. 22, 1974	do	Mar. 22, 1973
Cantera Ferrer, Inc	Bayamon	5.1; 5.2; 5.5	do	do	Sept. 25, 1973
Tito Castro Ready Mix	Santa Isabel	5.1; 5.2	July 23, 1973	do	Aug. 22, 1973
Ponce Concrete	Ponce	5.5; 5.2; 5.1	Feb. 22, 1974	do	Nov. 10, 1973
Abbot Chemical	Barceloneta	8	Sept. 4, 1974	do	Apr. 30, 1975
Cafe Crema Garrido	Caguas	5.5.3; 8	Aug. 27, 1974	do	Mar. 31, 1975
Asfalto Mayaguezana, Inc	Mayaguez	5.1; 5.2	Sept. 21, 1973	do	Sept. 30, 1973
Hormigonera Mayaguezana	Aguadilla	5.1; 5.2	Aug. 3, 1973	do	Do.

[FR Doc.75-11037 Filed 4-28-75;8:45 am]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 151—RIGHT TO READ PROGRAM

Reading Academy Program

Pursuant to the authority contained in the Cooperative Research Act (20 U.S.C. 331a(a)), notice is hereby given that the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, is amending Part 151 of Title 45 of the Code of Federal Regulations by adding a new Subpart E governing grants for reading academies to read as set forth below. The Reading Academy program has also been designed to be consistent with section 723 of the Education Amendments of 1974, Pub. L. 93-380 (20 U.S.C. 1963), which specifically authorizes reading academies and under which authority the Academy program will be carried out in Fiscal Year 1976.

The Reading Academy program will provide exemplary reading assistance and instruction for functionally illiterate out-of-school youths and adults not reached through other reading programs. Grants for Reading Academy programs may be made to State and local educational agencies, institutions of higher education, community organizations, and non-profit organizations.

According to a 1970 Harris survey, approximately 18 million adult Americans are functionally illiterate, lacking even minimal reading skills. Of this number, it is estimated that 1.5 million are totally illiterate. An analysis of the limited literature available on functionally illiterate youths and adults reveals that this group is the most difficult to recruit into educational programs and, once recruited, the most difficult to retain. Many come into an educational program with a feeling of failure and are easily discouraged. It is hypothesized, however, that given highly personalized instruction and educational counseling, a significant number of these youths and adults can be helped to attain a functional level of literacy.

The following regulations set out the funding requirements and application criteria which will be used in awarding grants under this program. Information on allowable costs and project duration is also provided. Following the regulations, in an appendix, are guidelines for the Reading Academy program which provide guidance, suggestions, and recommendations for meeting the funding requirements and application criteria set out in the regulations.

As required by section 431(a) of the General Education Provisions Act and section 503 of the Education Amendments of 1972, a citation of statutory or other legal authority for each section of the regulations has been placed in

parentheses on the line following the text of the section.

In accordance with section 431(b)(2)(A) of the General Education Provisions Act, it is the practice of the Office of Education to provide opportunity for interested parties to take part in its rulemaking process. However, this notice is given without such opportunity based upon the Commissioner's finding, in accordance with 5 U.S.C. 533(b)(3)(B) that public comment upon a proposed rule would be impracticable in view of the time pressures which dictate publication of a final rule at this time. Such finding is premised on the reasons set forth in the following paragraph.

Federal funds governed by this notice are available for obligation only through June 30, 1975. If a general notice of proposed rule making were issued at this time to be followed by a 30-day comment period, the only circumstance under which a final rule could be made effective in time to govern grant awards would be if no substantive changes were made in the final rule. This is because if no such changes were made, statutory time periods governing the effectiveness of rules (including the thirty day period in section 431(b)(1) of the General Education Provisions Act and the forty-five day period for Congressional review in section 431(d) of the General Education Provisions Act) could run from the date of a proposed rule. However, if a proposed rule were issued and substantive changes were then made in the final rule, the statutory time periods would run from the date of the final rule, and (given the time required to prepare a final rule following a public comment period) the rule could not be made effective in time to govern awards which must be made within this fiscal year. Therefore, the Department would not be in a position to make any substantive changes on the basis of any public comments offered on a proposed rule, and the opportunity for public comment is impracticable for this notice.

Although these regulations are being published in final form, public comment on the regulations is nevertheless invited for purposes of future policy-making and regulating with respect to the Reading Academy Program. Any comments should be addressed to the Director, Right-to Read Program, U.S. Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202.

Effective date. Pursuant to section 431(d) of the General Education Provisions Act, as amended, (20 U.S.C. 1232(d)) these regulations have been transmitted to the Congress concurrently with the publication of this document in the FEDERAL REGISTER. The section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

(Catalog of Federal Domestic Assistance Number 13.533—Right to Read—Elimination of Illiteracy)

Dated: April 9, 1975.

T. H. BELL,
U.S. Commissioner of Education.

Approved: April 23, 1975.

CASPAR W. WEINBERGER,
Secretary of Health, Education and Welfare

Subpart E—Reading Academy Program

Sec.
151.50 Scope and purpose.
151.51 Definitions.
151.52 Funding requirements.
151.53 Evaluation criteria.
151.54 Allowable costs.
151.55 Project duration.

AUTHORITY: Sec. 431(d), General Education Provisions Act, as amended, (20 U.S.C. 1232(d)).

Subpart E—Reading Academy Program

§ 151.50 Scope and purpose.

(a) This subpart governs applications for grants from State and local educational agencies, institutions of higher education, and community organizations and other non-profit organizations to support exemplary reading assistance and instruction for functionally illiterate out-of-school youths and adults.

(b) Grants under this subpart will support the development and installation of such activities in facilities to be known as reading academies.

(20 U.S.C. 331a(a))

§ 151.51 Definitions.

As used in this subpart,

"Adult" means an individual over the age of 18.

"Functional illiteracy" means the absence of reading skills necessary to enable individuals to function effectively in society.

"Participant" means an individual enrolled in an academy program for the purpose of receiving reading instruction.

"Service area" means the area to be served by a project funded pursuant to this subpart.

"Youth" means an individual between the ages of 16 and 18.

(20 U.S.C. 331a(a))

§ 151.52 Funding requirements.

(a) With respect to reading assistance and instruction activities proposed to be carried out in the project, an application submitted under this subpart must set forth: (1) Specific and measurable project objectives which will contribute to the elimination of functional illiteracy of adults and youths within the service area; (2) a proposed time frame for accomplishing such objectives; (3) an explanation of proposed procedures and strategies for accomplishing such objectives; and (4) an evaluation component providing for the collection, verification, and analysis of data to measure the extent to which such objectives are accomplished by the project.

(b) An applicant for assistance pursuant to this subpart must possess demonstrated experience in providing reading instruction to youths and adults.

(c) The Commissioner will approve an application submitted under this subpart only upon his determination that the requirements in paragraphs (a) and (b) of this section are satisfied and that the application:

(1) Describes project components involving the use of innovative methods, systems, materials, or programs which show promise of overcoming the reading deficiencies of adults and youths in need of reading instruction and of making the project worthy of replication in other communities;

(2) Defines the geographic area to be served ("service area"), which may be a city, county, regional area, or a smaller area within such units, and provides demographic and educational data supporting the need for a functional literacy program in the service area;

(3) Describes a system which the applicant either has in place or will develop for the identification and recruitment, as participants in the project, of youths and adults in need of reading instruction;

(4) Provides for development and implementation of an exemplary staffing plan that would:

(i) Provide one-to-one or individualized instruction to participants, and

(ii) Offer instruction at locations and times convenient to the participants; for example, through decentralized facilities or satellite academies;

(5) Provides for utilization of materials suitable for youths and adults which are related to their expressed needs and interests, e.g., concerning employment tasks, consumer information, health and welfare services, and current events;

(6) Describes a strategy to involve community and service organizations in the elimination of illiteracy in the service area;

(7) Designates a project director and/or other staff with experience in, and knowledge of, adult education in non-school settings, literacy education, teacher or tutor training, recruitment of volunteers, and community resources;

(8) Describes administrative arrangements whereby the project director assumes responsibility for all project activities; and

(9) Provides for the establishment of a unit task force which will play an active role in planning and implementing the project and will include representatives from the applicant agency, out-of-school youths and adults from the potential target population, representatives from community groups, other Federal

or State programs, and business and industry.

§ 151.53 Evaluation criteria.

In evaluating project proposals under this subpart, the Commissioner will seek to identify a small number of exemplary projects and will evaluate proposals in accordance with the following criteria and point system totaling 200 points:

(a) The criteria set forth in § 100a.26 (b) of this chapter (the Office of Education General Provisions Regulations); (10 points)

(b) The extent to which the project is designed to achieve high quality (beyond meeting minimum requirements) with respect to each of the requirements set forth in § 151.52 (total of 100 points), assigning 35 points to paragraph (a) of § 151.52, 5 points to paragraph (b) of § 151.52, and 5 points to each of the subparagraphs under paragraph (c) of § 151.52, except that subparagraph (2) of paragraph (c) of § 151.52 will be assigned 15 points, and subparagraph (4) of paragraph (c) of § 151.52 will be assigned 10 points;

(c) The relationship of projected costs to both the numbers of functionally illiterate youths and adults to receive reading assistance and instruction and to the quality and intensity of the instruction to be offered (for example, one low-cost approach that might be considered could be the utilization of volunteers as tutors) (20 points) and

(d) The extent to which:

(1) Appropriate procedures will be used for measuring the achievement of the participants; (5 points)

(2) The applicant plans to develop materials and provide assistance designed to meet the individual needs of participants; (5 points)

(3) The applicant proposes to use innovative materials and approaches to train tutors and other instructional personnel; (10 points)

(4) The applicant will provide periodic in-service training for tutors and supervisory staff; (5 points)

(5) The applicant will carry out the project in cooperation with other local programs concerned with adult education and, where appropriate, will utilize volunteers from such programs as VISTA, the Retired Senior Citizens Program, college work-study programs, and community service organizations; (10 points)

(6) The applicant will establish working relationships with such programs as manpower programs under the Comprehensive Employment and Training Act of 1974 and the Neighborhood Youth Corps as part of its recruitment strategy; (5 points)

(7) The applicant plans to provide appropriate supportive services to tutors or other instructional personnel in any decentralized, satellite or branch academies; (20 points)

(8) The applicant proposes to utilize materials that reflect the language and heritage of those participants of limited or no English-speaking ability. (10 points)

(20 U.S.C. 331a(a))

§ 151.54 Allowable costs.

Allowable costs under grants awarded under this subpart shall be determined in accordance with the cost principles set forth in appendices to sub-chapter A of this chapter, subject to the following restrictions:

(a) A maximum of 5 percent of funds may be spent on equipment in the first year.

(b) Although there are no established limits to the amounts of assistance provided under a grant, it is anticipated that grants will generally range from $30,000 to $80,000 per year depending on the size of the service area, the number of adults and youths proposed to be served, the scope and nature of the proposed project, and relative local costs.

(20 U.S.C. 331a(a))

§ 151.55 Project duration.

(a) Projects may be for up to three years duration.

(b) Grants will be made for twelve-month periods and decisions on refunding will be made yearly on the basis of the extent to which the grantee has satisfactorily performed under the previous grant period, and the availability of funds. A budget for the first twelve-month period must be developed. Tentative projected budgets for subsequent years must also be developed, if projects of more than one year's duration are planned.

(20 U.S.C. 331a(a))

APPENDIX—MANUAL OF GUIDELINES RIGHT TO READ READING ACADEMY PROGRAM

CHAPTER I—INTRODUCTION

Part 1—Guidelines.

Sec. 1.1 Scope of guidelines.

CHAPTER II—GENERAL INFORMATION FOR THE APPLICANT

Part 1—General Information.

1.1 General.

Part 2—Planning.

2.1 General Planning information.
2.2 Identification of the problem.
2.3 Identification of community resources.
2.4 Community involvement.
2.5 Establishing objectives.
2.6 Staff development.

Part 3—Participant Recruitment and Retention.

3.1 Recruitment.
3.2 Participant retention.

Part 4—Instructional Program.

4.1 Program.
4.2 Materials.

Part 5—Evaluation.

5.1 General.

Part 6—Project Director and Staff.

6.1 Staff.
6.2 Volunteers.

Part 7—Unit Task Force.

7.1 Composition.
7.2 Responsibilities.

CHAPTER III—A MODEL: ACADEMY CENTER AND SATELLITES

Part 1—The Model.

1.1 General.
1.2 Academy Center.
1.3 Satellites.

(AUTHORITY: Section 2(a)(1) of Pub. L. 83-531 as amended.

CHAPTER I—INTRODUCTION

Part 1—Guidelines.

1.1 *Scope of guidelines.* (a) These guidelines are recommendations and suggestions for meeting the funding requirements and evaluation criteria for reading academy programs under the Cooperative Research Act (20 U.S.C. 331a(a)). The legal requirements include the Act and the regulations (Subpart E of 45 CFR Part 151). The guidelines are not to be construed as requirements; however, where the guidelines set forth a permissible means of meeting a legal requirement, the guidelines may be relied upon.

Projects which do not come within these guidelines will not be prejudiced. Projects are not subject to termination proceedings or audit exceptions for conduct which is recommended or suggested in the guidelines.

(b) Where a guideline is issued in connection with or affecting a provision in the regulations, the pertinent regulation will be cited after the citation of legal authority for the guideline, in the parentheses following the guideline. For example, if the legal authority for the guideline is the Act (20 U.S.C. 331a(a)) and the guideline affects § 151.52 of the regulation (45 CFR 151.52), the following citation will be placed on the line immediately following the guideline: (20 U.S.C. 331a(a)) (45 CFR 151.52). If no particular section of the regulation is affected, no citation to the Code of Federal Regulations (CFR) will be made.

(20 U.S.C. 1232(a))

CHAPTER II—GENERAL INFORMATION FOR THE APPLICANT

Part 1—General Information.

1.1 *General.* The Reading Academy program provides grants to State and local educational agencies, institutions of higher education, and community and other non-profit organizations to provide exemplary reading assistance and instruction to functionally illiterate out-of-school youths and adults not reached through other reading programs. The instruction is to be provided in facilities to be known as reading academies. While there is a variety of ways that an applicant may plan for, and then implement, a reading academy, the following suggestions and guidelines are intended to provide assistance which may help in developing a project to meet the requirements, or in implementing a funded project.

(20 U.S.C. 331a(a)) (45 CFR 151.50)

Part 2—Planning.

2.1 *General planning information.* The regulations set out several requirements concerning description of the proposed project of an applicant which can be met only if adequate planning has been done in developing the application.

In planning, it is generally helpful to go through the following steps:

(a) Identification of the problem (needs assessment);

(b) Analysis of community resources;

(c) Community involvement;

(d) Establishing objectives and strategies to meet them; and

(e) Staff development.

(20 U.S.C. 331a(a)) (45 CFR 151.52(a)(1))

2.2 *Identification of the problem.* To determine the numbers and characteristics of youths and adults with reading problems in a given area, and therefore the type of reading academy program which will best meet the problems, the following types of information are relevant:

(a) The number of adults and youths (out-of-school) who have not finished elementary and secondary school;

(b) The number of youths and adults who may be defined as functionally illiterate;

(c) The age range and sex of target groups (between 16–20, 21–35, over 35);

(d) The ethnic backgrounds of the target groups;

(e) The non-English speaking populations;

(f) The estimated income levels of target groups (below $3,600, $3,600 to $7,200, and so forth);

(g) Their employment profiles (number of full time, part time, and unemployed, whether skilled, semi-skilled, unskilled);

(h) Identification of the neighborhoods where the target population lives.

(20 U.S.C. 331a(a)) (45 CFR 151.52(c)(2)).

2.3 *Community resources.* Knowledge of what educational services are available to adults in their communities is helpful in determining how a reading academy should be structured to supplement existing services or to build bridges between agencies and services. Information may be obtained by making an inventory of community agencies, service organizations, local business and industry, State agencies, local and federally funded programs; and by identifying which agencies might be helpful in identifying and recruiting participants and/or serving as sources of volunteers; providing materials and facilities; providing publicity; offering special expertise in training volunteers or having the capability of sponsoring or housing reading academy branches in neighborhood facilities convenient to participants.

(20 U.S.C. 331a(a)) (45 CFR 151.53(d)(5) and (6)).

2.4 *Community involvement.* Involving diverse segments of the community in the planning, development, and operation of a project increases the possibilities for greater project success. Applicants are encouraged to consider the development of an effective structure of involvement entailing extensive planning on the part of each applicant (and follow-up planning by each grantee). Recognition of the competence and interest of a variety of groups both within and outside of formal educational institutions in planning and operating project activities may result in programs which can best meet the needs of the target population and sustain the interest and support of the community. As one means of ensuring community involvement the regulations require establishment of a unit task force. Further guidance on the unit task force is provided in Part 7 of these guidelines.

(20 U.S.C. 331a(a)) (45 CFR 151.52(c)(6) and (c)(9))

2.5 *Establishment of objectives.* (a) Section 151.52(a) of the regulations requires the applicant, having identified the needs of functionally illiterate youths and adults in a given area, to develop objectives that relate to the overall project activities. A number of provisions in the regulations also concern the meeting of participants' individual needs (§§ 151.52(c)(4)(i), 151.53(c)(1) and (2)). To do this, it is suggested that participants in a project be involved with their tutors in the formulation of their own learning objectives. Objectives allow partipicants and staff to see what behaviors must be demonstrated for successful completion of the program, in addition to allowing them to evaluate their own progress toward the successful accomplishment of the objectives. For the project director and for the teachers, the objectives serve to identify problems encountered by the learners at various stages, providing the opportunity for revision of the learning approaches utilized. Furthermore, clearly-stated objectives for individual participants make it possible to evaluate learner progress as well as the effectiveness of the instructional design.

(b) With respect to overall project objectives called for in § 151.52(a) of the regulations, objectives in three areas might be identified: operational objectives, instructional objectives, and product objectives:

(1) Operational objectives refer to the goals for the processes that are necessary to carry out the project, such as recruitment and teaching of participants and recruitment and training of volunteer and other teaching and administrative staff.

(2) Instructional objectives refer to the goals for changes in students' (and staff members') cognitive and affective behavior (see Part 4—Instructional Program).

(3) Product objectives refer to goals in developing such material items as criterion-referenced tests, curriculum guides, or reading materials. It is useful to set out time schedules for the production of materials.

The effectiveness of the instructional program is likely to be directly related to the clarity of the operational objectives and the instructional objectives. The operational objectives, in addition to reflecting the total program planning design and the process necessary to carry out the program, are based upon the applicant or grantee agency's philosophy about adult education. The instructional objectives specify the observable results by which the projects activities can be measured. The instructional objectives set the stage for the specific behavioral objectives which will be achieved by the participants. Clarity of the objectives will also facilitate the selection of instructional materials.

(20 U.S.C. 331a(a)) (45 CFR 151.52 (a) and (c)(1) and (2); 151.52.(c)(2))

2.6 *Staff development.* The regulations set out several requirements designed to ensure that staff have adequate experience and expertise with adult education in non-school settings, literacy education, teacher or tutor training, recruitment of volunteers, and knowledge of community resources. While any one person may not have all of the above experience or expertise, the staff as a whole should have such experiences, which should be enhanced by further training. The regulations do require that the project director assume responsibility for all aspects of the program.

(20 U.S.C. 331a(a)) (45 CFR 151.52 (b), (c)(7), and (8), and 151.53(d)(4) and (5))

Part 3—Participant Recruitment and Retention.

3.1 *Recruitment.* The regulations require development and implementation of an exemplary system to identify and recruit participants. The identification and recruitment of youths and adults who are functionally illiterate are sensitive and a complicated tasks. Due to the social stigma attached to illiteracy, individuals are often shy to admit that they cannot read. Many have developed a whole series of protective mechanisms to hide their disability from family and friends. In the past the school failed to serve them adequately; consequently they are suspicious of educational programs. It may be that the best way to identify and approach potential participants is to reach them indirectly through community organizations. Communication with community, youth, and social organizations will help to establish awareness of the program. Other agencies such as social service agencies, State employment agencies, and the Department of Motor Vehicles might be encouraged to refer to the academy those persons they have identified as in need of basic reading instruction. In some communities, staff may have to organize door-to-door recruitment campaigns. Volunteers from local organizations have proven in the past to be very effective in such recruitment campaigns. Obviously, it is important to plan well in advance the types of recruitment strategies that are appropriate for a particular service area, to implement these plans as soon as possible after the receipt of the grant award, and to allow time for recruitment. Applicants and grantees are encouraged to consider whether special emphasis might be given to plans for the participation of out-of-school youths, as experience has shown that this group is the most difficult to recruit into literacy programs and the most difficult to retain once enrolled.

(20 U.S.C. 331a(a)) (45 CFR 151.52(c) (3) and (6) and 151.53(c) (6))

3.2 *Participant retention.* Attracting functionally illiterate youths and adults to the reading academy project is only part of the effort needed to have a successful project. Keeping their interest with a relevant and interesting curriculum is another, and providing supportive services may be a necessary third element of a successful program. Out-of-school youths and adults come to reading programs with a variety of problems. For them, learning is never easy; they are quickly discouraged and need continual encouragement. Many are unemployed and looking for work. Some are employed in physically exhausting labor. Others must rely on public transportation or the generosity of friends in order to reach the academy. An applicant may have a more successful program if the staff is able to anticipate these and other problems which might cause the participant to drop out. Experience with successful adult literacy programs indicates that a project may need to include a referral service to appropriate social service and health agencies, provide help in cutting through red tape to gain a much needed service and, at times, provide minimal funds to offset the cost of transportation. In very isolated areas where public transportation does not exist, some projects have found that it is necessary to provide transportation to the instructional site. Applicants are encouraged to consider and provide for these elements as appropriate.

Part 4—Instructional Program.

4.1 *Program.* The regulations require that an exemplary program of reading assistance be developed for teaching the functionally illiterate youth and adult target population. It is hoped that programs will be planned to provide participants with opportunities for immediate reading success, with practice of reading and related skills, and with positive reinforcement. A more successful program may result where supervisory and teaching staff have an understanding of the process of reading development for adults, of how to assess a participant's reading ability, a working knowledge of available instructional print

and other media materials suitable for adults, and the ability to exercise creativity in developing instructional programs. A program more relevant to the needs and interests of the target population may be developed if representatives of the target population and the community are involved in planning and implementing the project.

The Right to Read Office does not advocate any one method or set of instructional materials; rather it advocates that instruction be tailored to meet the needs of the individual learner. As a means of facilitating individualization, applicants are urged to adopt a diagnostic/prescriptive approach to instruction. This approach requires that each individual be diagnosed to determine the strengths and the needs he or she has regarding reading. Following the diagnosis, it is then necessary to prescribe a program of experiences utilizing appropriate materials and activities which will meet the needs which have been identified. Participant needs will dictate what kinds of materials should be used in the instructional process; since participants' needs will likely be varied, a variety of materials at different levels of difficulty may be required to provide necessary individualized instruction.

If English as a second language is a component of the instructional program, the participants should be given ample opportunity for practice of oral English.

(20 U.S.C. 331a(a)) (45 CFR 151.52(c) (1) and (5), and 151.53(d) (2), (7), and (8))

4.2 *Materials.* Choosing appropriate learning materials is an important part of the program. More learning is likely to take place if the materials are relevant to the backgrounds and immediate reading needs and interests of participants and if the staff understands how the materials are to be used (and any prerequisites necessary to their use). Both commercially-produced materials (adopted or adapted) and relevant teacher-made materials may be used together. The materials, whether commercially produced or teacher-made, should be realistic, practical, functional, usable, and reflective of the needs and interests of the participants.

Whenever appropriate, the native language and culture of the participants should be used as an integral part of the instructional program. Instruction is more meaningful if focused around real-life coping skills such as consumer education and consumer rights, the world of work, job application skills, job or vocation-related skills, and so forth. Teachers may also use a variety of materials such as newspapers, cooking recipes, various types of application forms, signs, or any other printed materials that are interesting and relevant to the adult and youth participants.

(20 U.S.C. 331a(a)) (45 CFR 151.52(c) (1) and (5), and 151.53(d) (2) and (7)).

Part 5—Evaluation.

5.1 *General.* The regulations require an evaluation component for each project providing for the collection, verification, and analysis of data to measure the extent to which the project objectives are accomplished and procedures for measuring the achievement of participants. Both process (formative) and impact (summative) evaluation should be conducted. Process evaluation can be defined as a timely examination of project activities that actually occur with a view to see (1) how they correspond with what was promised, (2) to what extent the activities appear to be effective and (3) how they can be improved by modification. Within this system, as each modification is implemented, the cycle would start again. In its simplest form, process evaluation can be defined as a management information system. Impact evaluation examines the final results and asks whether the objectives were achieved.

(20 U.S.C. 331a(a)) (45 CFR 151.52(a) and 151.53(d) (1))

Part 6—Project Director and Staff.

6.1 *Staff.* The regulations require that (1) the project director and his or her staff have specified experiences and expertise in the areas of adult education in non-school settings, literacy education, teacher or tutor training, recruitment of volunteers, and knowledge of community resources and (2) the applicant develop a system whereby the project director assumes responsibility for directing the project and all of its activities, including communication, programming, and evaluation. The following discussion presents some practical considerations which may be helpful in meeting these requirements.

An enormous part of the responsibility for the program rests with the project director, and it is important that he or she spend a major part of his or her time on the project. A suitable candidate for the position of project director should be identified during the planning stage prior to submission of the application so that he or she may be hired as soon as approval is granted and, if possible, be involved in the planning of the program. Other staff, paid and volunteer, should be chosen to complement the experience and expertise of the project director as well as to carry out training and/or teaching functions. In areas with high concentrations of participants of limited or no English speaking ability, the applicant is encouraged to actively recruit project staff who speak the same language as the participants and who are of the same ethnic background as the participants. The director is responsible for all project activities, evaluations and communication concerning the project. It is important to establish efficient internal and external communication systems so that feedback to and by project staff, participants and the community is timely and continuous. A determination should also be made as to which reports should be prepared about the program for the Office of Education according to the General Provisions Regulations (45 CFR Part 100a, Subparts P-R) and what communications might be desirable for informing the public about the existence of the program, its services, and accomplishments.

NOTE: Grantees will be provided with instructions and format for submission of required Office of Education reports.

(20 U.S.C. 331a(a)) (45 CFR 151.52(c) (7) and (8), and 151.53d(8))

6.2 *Volunteers.* (a) General. A review of the literature of volunteers in adult literacy programs and Right to Read program experience suggests that functionally illiterate youths and adults need instruction that is frequent, intensive, and personal. The limited financial resources available to the academy program necessitates that a project use imaginative schemes to insure that an academy offers this type of instruction. One effective way to stretch program funds is to enlist the aid of volunteers. Volunteer tutors, when given appropriate training and support, have been particularly effective in working with adults in reading programs.

Projects which put strong emphasis on the use of volunteers will need to develop detailed plans that include volunteer recruitment, preservice, and inservice training, placement of volunteers and supportive services. The guidelines below present recommendations for projects which choose to make use of volunteer staff.

(b) *Recruitment.* If a project determines that it will rely on volunteer tutors, it should estimate the total number and types of volunteers it will need in order to form a resource pool of tutors and then set recruitment goals. Any plan to recruit volunteers should include identification of sources of volunteers (such as service organizations and college work study programs), establish working relationships with these groups, and launch a public awareness program through the media. The recruitment strategy should be designed to continue through the duration of the project and should take into account the traditionally high turnover rate of volunteers in the early part of any project.

(c) *Responsibilities.* It is helpful if job descriptions for volunteers are written and used as a basis for any recruitment campaign. These descriptions might include some indication of the type of commitment that will be expected from a volunteer. For example, "A tutor will teach reading to an individual adult, a minimum of three hours a week for thirty weeks," or "The tutor will participate in x number of preservice training sessions and periodic inservice training sessions".

(d) *Training.* Objectives for the training of volunteers should be clearly stated. Generally, they would include both affective and cognitive behaviors. The training should develop an awareness of, and a sensitivity to, the needs of the target population, orientation to the community and its resources, some basic reading instructional approaches and skills, and a familiarity with the instructional materials. The training program goal is to lead to the establishment of a helping relationship between the tutor and the professional staff. This preservice training sequence could be anywhere from 15 to 45 hours in length and might be followed by inservice training and supportive service offered once the volunteer tutor is in the field. Regularly scheduled contact between the tutor and the professional staff of the academy is important. In-service training needs will be as varied as the number and types of volunteers and participants involved in the program. General training sessions should be directed toward the resolution of problems common to all literacy programs; the informal follow-up services should concentrate on the resolution of specific problems.

(20 U.S.C. 331a(a)) (45 CFR 151.52(c) (4) and (6), and 151.53 (c) and (d) (7))

PART 7—The Unit Task Force.

7.1 *Composition.* The regulations require that a unit task force be established consisting of representatives from the applicant agency, out-of-school youths and adults from the potential target population, representatives from community groups, other Federal or State programs, and business and industry. Some points that might be considered in selecting members of the unit task force are:

(a) Special care might be taken to select youths who have demonstrated leadership among their peer groups.

(b) Community groups which might be involved include social agencies, adult education programs, local action groups, the public library, youth organizations, labor unions and municipal agencies.

(c) Federal and State programs might include Adult Basic Education, the Model Cities Program, manpower training programs, Neighborhood Youth Corps, State employment agencies and volunteer organizations, particularly those sponsored by Federal programs (such as the retired senior citizens programs and VISTA).

It is important to keep in mind that while the unit task force should be large enough to represent diverse groups and interests, it

should not be so large that its size limits efficient operation. For some projects, a unit task force and several sub-unit task forces might be established. For instance, if several neighborhood facilities are used to provide reading instruction, different sub-unit task forces for each neighborhood facility might be established so that more grassroots involvement and identification is obtained.

(20 U.S.C. 331a(a)) (45 CFR 151.52(c) (9))

7.2 *Responsibilities.* The following are examples of functions which might be performed by the unit task force to satisfy the regulation requirement that it play an active role in planning and implementing the project:

(a) Assistance in program planning including the identification of the target population, the assessment of needs, and the selection of project activities and priorities;

(b) Recruitment of volunteers and assistance in the mobilization of community resources;

(c) Assistance in staff development programs for project staff and volunteers;

(d) Assistance in identifying agencies which might serve as sponsors of locations for neighborhood reading academies;

(e) Assistance in the dissemination of information about the project throughout the community;

(f) Coordination of the project with other community groups, with professional organizations, and with public and private agencies.

(20 U.S.C. 331a(a)) (45 CFR 151.52(c) (9))

CHAPTER III—A MODEL: ACADEMY CENTERS AND SATELLITES

PART 1—The Model

1.1 *General.* Several of the funding requirements and evaluation criteria suggest and support the development of a model for a reading academy project. In short summary they are: that low-cost individualized instruction be provided at locations and times convenient to participants; that the community be involved, perhaps by providing community or neighborhood facilities; that because of the difficulty in reaching the target populations, the staff be knowledgeable about providing instruction in non-school settings and in recruiting volunteers to work with participants. A model is therefore suggested which would include an academy center where planning, programming, staff recruitment, training and evaluation would be conducted, and satellite academies which would be located in facilities in neighborhoods convenient to potential participants where instruction would actually be provided. Volunteer tutors would provide the one-to-one instruction and would individualize attention and assistance to participants.

This model is not given as the exclusive approach to meeting the requirements and criteria contained in the regulations, but as one possible approach recommended for consideration by applicants.

(20 U.S.C. 331a(a)) (45 CFR 151.52(c) (3), (4), (6), and (7) and 151.53(d) (2) and (7))

1.2 *Academy Centers.* Under the model, the reading academy grantee would be responsible not only for carrying out an instructional program for youths and adults in a centralized reading academy, but also for developing a network of neighborhood-based or satellite academies staffed by trained volunteers who would provide instruction in the neighborhoods of the target population. The academy center would be responsible for developing a comprehensive volunteer system which would include recruitment and training of volunteers and placement of volunteer tutors in satellite academies. The academy center would also provide a wide variety of supportive services to the volunteer once he or she starts tutoring an adult, whether the instruction occurs at the center or in a neighborhood satellite academy. Such service might include help for the tutors in material selection, in diagnostic testing and instructional prescription. The center would provide specific services to participants such as education counseling, referral service to appropriate social service or health agencies, and job placement. The academy center, as part of its effort to launch neighborhood-based academies or satellites, would work with various community groups, neighborhood councils and with branch libraries to identify appropriate places to house the instructional programs which are convenient to the target population. It would also mobilize a variety of community resources to support the academy.

(20 U.S.C. 331a(a)) (45 CFR 151.52(c) (3), (4), (6), and (7) and 151.53(d) (2) and (7))

1.3 *Satellites.* The satellite academies would take instruction to the places that are most suitable, convenient and easily accessible to the adult participants. They could be housed in libraries, community centers, homes, places of employment, schools, YMCA's or in a variety of other appropriate facilities. The center might adopt any one of a number of strategies to implement the satellite concept. It could establish a satellite academy or a network of academies as a direct outgrowth of its own operation and carry the full responsibility for its management. Under this arrangement the center would identify and obtain community facilities but without further commitment from an organization. In communities with already established literacy programs, the center might establish a cooperative arrangement whereby it would provide certain specified professional services. In other communities the center could work through local organizations which would be willing to sponsor an academy, provide facilities and serve as a source of volunteers. Whichever arrangements are made for the establishment of a satellite academy, it would have a coordinator who would be responsible for recruiting participants who live in the neighborhood, scheduling sessions with tutors and participants, maintaining a communication link between the tutor and participants, keeping records (attendance, progress charts, test scores), storage of instructional materials, and making sure that facilities are available as scheduled.

(20 U.S.C. 331a(a)) (45 CFR 151.52(c) (3), (4), (6), and (7), and 151.53(d) (2) and (7))

[FR Doc.75-11142 Filed 4-28-75;8:45 am]

PART 177—FEDERAL, STATE AND PRIVATE PROGRAMS OF LOW-INTEREST LOANS TO VOCATIONAL STUDENTS AND STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

Special Allowances

Paragraph (c) (3) of § 177.4, Special Allowances, which deals with the payment to lenders of the allowances authorized by section 2 of the "Emergency Insured Student Loan Act of 1969" (Pub. L. 91-95) is amended to provide for the payment of such an allowance for the period January 1, 1975, through March 31, 1975, inclusive.

In light of the directives in the Emergency Insured Student Loan Act of 1969 with respect to the factors that the Secretary of Health, Education, and Welfare is to consider and the officials with whom he is to consult in setting the rate of the special allowance, and since a comment period would cause delay of at least 30 days, following each quarterly 3-month period, it has been determined pursuant to 5 U.S.C. 553 that the solicitation of comment as to the rate of the special allowance for any particular quarter is both impracticable and contrary to the public interest.

Effective date. Pursuant to section 431(d) of the General Education Provisions Act, as amended, (20 U.S.C. 1232 (d)) these regulations have been transmitted to the Congress concurrently with the publication of this document in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

Section 177.4(c) (3) is amended as follows:

§ 177.4 Payment of interest benefits, administrative cost allowances and special allowance.

* * * * *

(c) Special allowances. * * *

(3) Special allowances are authorized to be paid as follows: * * *

(xxiii) For the period January 1, 1975, through March 31, 1975, inclusive, a special allowance is authorized to be paid in an amount equal to the rate of 2¼ percent per annum of the average unpaid balance of disbursed principal of eligible loans.

(Sec. 2, 83 Stat. 141)

(Catalog of Federal Domestic Assistance No. 13.460 Guaranteed Student Loan Program)

Dated: April 14, 1975.

T. H. BELL,
U.S. Commissioner of Education.

Approved: April 23, 1975.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

[FR Doc.75-11171 Filed 4-28-75;8:45 am]

CHAPTER XII—ACTION

PART 1215—INSPECTION AND COPYING OF RECORDS: RULES FOR COMPLIANCE WITH PUBLIC INFORMATION ACT

The provisions contained herein establish regulations for this Agency with regard to the dissemination of records, documents and other information in conformity with the Public Information Act, 5 USC 522 as amended by Pub. L. 93-502, 88 Stat. 1561.

On January 22, 1975 a notice of proposed rulemaking was published in the FEDERAL REGISTER (40 FR 3462) proposing to add a new Part 1215 to Part 45 of the Code of Federal Regulations to provide rules and regulations for the production, inspection and copying of records and documents. Notice was given that inquiries, comments or views concerning the proposed subpart were to be

submitted to ACTION on or before February 18, 1975. The following comments have been received to this date:

A. A comment suggested that "unit heads" who have initial responsibility for determining whether a document will be produced might not have the appropriate expertise to make such a determination. The comment suggested it might be better policy to place such decision-making power in the hands of the General Counsel. It is the position of the Agency that the provisions of § 1215.9(i) are adequate. The language indicates that no denial shall be made without consultation with the General Counsel's office. The policy of the Act clearly is to provide for the broadest possible access to agency records. It is only in the event that the unit head determines initially that the material should not be furnished that any question arises under the policy of the Act. At that point, the unit head must consult the General Counsel's office to obtain advice as to whether or not the document or record sought is or can be exempt under the provisions of the Freedom of Information Act and the regulations herein published. It is anticipated that the large majority of requests will be granted without the necessity of referral to the General Counsel for a legal opinion.

B. Another comment indicates that there should be greater definition in § 1215.2(b) to provide that documents which have impact upon an employee's right to privacy, and presumably the right to privacy of any other individual, be excluded in the definition. It is the position of the Agency that the definitions under § 1215.2 are not the appropriate place to introduce such material. The provisions of § 1215.3(e) provide for deletion of material which might invade personal privacy with regard to records generally available. In addition, § 1215.5 (f) exempts material from disclosure which would "amount to a clearly unwarranted invasion of the privacy of any person to whom the information pertains." It is felt that these two provisions are sufficient to prevent the production of information which might invade the personal privacy of any employee, volunteer or other individual.

C. A comment indicated that requests for information made to Peace Corps overseas posts are not mentioned specifically in the regulation. This oversight is corrected by the addition of § 1215.6 (j) to indicate that United States citizens residing abroad may make a request to the Director of any Peace Corps post and that such request shall either be complied with at post, or forwarded to the National office for determination in the event the record is either not available at the post or in the event that in the opinion of the Peace Corps Director involved the information requested should not be produced.

D. A comment inquired as to whether a "current index" had been compiled under the provisions of § 1215.3(d) and whether or not such index will be published in accord with the provisions of section 552(a) (2) of Title V of the United States Code. A determination has been made that publication of such index would be unnecessary and impractical but that a current index will be maintained and all or any portion thereof will be furnished at the cost of duplication to any person requesting same. Section 1215.3(d) has been amended accordingly.

E. Several comments have requested information as to a definition of inter-agency or intra-agency memoranda or letters as specified in § 1215.5(e). It is the position of the Agency that further explanation of these terms would be difficult and unnecessary. As indicated in paragraph (e) what is intended to be included in the exempt category of this subsection are those documents which are used or useful in making ultimate policy determinations and decisions. A decision not to disclose any such document would not only have to be based upon the exemption but the deciding official would also have to find that the disclosure of the document would be inimical to the public interest in accordance with the provisions of subsection (i) of this section. The purpose and intent of this exemption as outlined in several decisions is to protect the decision-making process from invasion and to protect the confidentiality of advice received by decision-making officials. The exemption is and should be narrowly construed to achieve these purposes, and these alone. It is doubtful that any list of examples could be given which would be sufficiently comprehensive and to which there would not be exceptions.

F. A comment received as to § 1215.7 (b) indicates that it is impossible for the Agency to have "readily available in its Regional Offices" all materials generally available in the Central Records Room because of the time limitations involved in any request, the section has been amended to indicate that if a record is not available in the region the requester will be instructed to transmit his request to either appropriate Regional Office which maintains such records or to the Director of Administrative Services in the Washington headquarters.

G. A comment suggested that approval of the furnishing of documents at no charge or at reduced charge should be delegable by the Deputy Director and in accord, § 1215.10(b)(5) has been amended to provide the Deputy Director may delegate this function.

H. A comment pointed out that the Agency maintains small offices at the State level which do have some records and documents and that requests might be directed to the State office. A new paragraph (k) has been added to §1215.6 which deals with this area.

I. A comment pointed out that the Agency publishes many brochures, flyers, etc. and that while they are generally available, some are out of print. Section 1215.3 has been amended by adding thereto a subsection (f) to indicate that the Agency will not be responsible for recreating material or for creating records which do not exist, i.e. doing research or work under the guise of a request for documents or records.

J. A comment received with respect to § 1215.5 stated that the language thereof which indicates that the exemption category includes rules and regulations "relating to personnel management and operations" is ambiguous in that it is allegedly not clear whether the section applies only to personnel operations or to operations generally. It is the position of the Agency that the language in this subparagraph very clearly includes only matters related to personnel operations and personnel management and not to any other operations in fields other than personnel.

K. A comment with respect to § 1215.5 (d) raises a question as to whether the words, "given in confidence" contained in the first sentence of the section are not violative of the ruling in "National Parks and Conservation Assoc. v. Morton," 498 F.2d 765, 770 (D.C. Cir. 1974). It is the Agency's position that the context of the sentence and the paragraph makes it clear that the quoted language "given in confidence" merely indicates that as a threshold matter the information received must have been received in confidence and that the language is not violative or contrary to the ruling in the above-cited case.

(1) A comment with respect to § 1215.5 (f) objects to language in the second sentence of the subsection relating to, "other files or materials containing private or personal information." The comment suggests the word "similar" should be substituted for the word "other", on the grounds that the word "other" is too broad. It is the position of the Agency that the rule of *ejusdem generis* is applicable here and that the plain language of this section is appropriate and sufficiently limited to satisfy the provisions of the law.

The same comment also questions the language in this section relating to the disclosure of material "which would violate a pledge of confidentiality and amount to a clearly unwarranted invasion in the privacy of any person to whom the information might pertain." on the ground that the language relating to a violation of a pledge of confidentiality would extend the exemption more broadly than is permitted by the law. The commentator feels that withholding of documents on the grounds of a pledge of confidentiality alone would be improper. It is the position of the Agency that the conjunctive word "and" makes it clear that it is only when a pledge of confidentiality is involved together with an unwarranted invasion of privacy that the exemption applies. The comment would be valid only if the disjunctive "or" had been used. The language of this section was chosen on the ground that applicants for volunteer service are told that material provided by them, and their application forms, will be kept confidential and it was felt that this pledge of confidentiality should be properly noted in the exemption.

M. A comment was received to § 1215.9 which has been renumbered § 1215.6

which suggests that the provisions of paragraph (b) be amended to provide that when a request is sent to an office which does not have the requested material, that office should itself forward the request to the proper office and then should notify the requester. The request would then be deemed received by the Agency when actually received in the appropriate office. The Agency does not agree with the proposed change in this case since the section makes it clear that the requester may request the office to which he made the original request to forward such request. In any event, the requester has the option of resubmitting the request to the proper office or requesting the office to which he made the original request to do the forwarding. In many cases such initial request may have to be restated or amended and it is felt the section adequately handles this matter.

N. A comment received with respect to § 1215.9(c) (now § 1215.6(c)) complains that the provision of 15 calendar days from receipt of initial denial within which to file an appeal is "ultra vires" and should be deleted from the regulation as not provided for in the Freedom of Information Act. The Agency rejects this restrictive construction of the Act which would evidently permit nothing but perhaps laches or estoppel to toll the time within which a person might file an appeal from an adverse ruling. It is the position of the Agency that this regulation is amply justified. While it is true there is no specific limitation, the Act does anticipate reasonable regulations by agencies. ACTION feels it is not unreasonable to provide that appeals from initial denials must be brought within 15 days. If the 15-day limitation does indeed work any hardship in any individual case it can and will be extended.

O. A comment received with respect to § 1215.10(b) (3) objected that the amount of $25 fixed in such subsection should be changed to $15 and that the requirement that a requester be notified promptly after receipt of the initial request that the cost of reproduction might be the excess of such amount be changed to five days after receipt of request. It is the position of the Agency that the amounts are reasonable and an absolute time limit of five days given the vagaries of the mail system would not be appropriate in this case.

P. A comment as to § 1215.10(b) (2) suggests that requesters be advised in the event that it appears that search is not likely to produce records responsive to the request in order that such requester be not charged for such useless search service. While the Agency does not believe that such a provision should be placed in the regulations, it certainly is and will be the policy of the Agency to advise any requester of any such fact before expending valuable time in a useless search.

Q. Various minor changes have been made such as the designation of the Regional Directors in this country as "Domestic Regional Directors" and a redesignation of the Chief of Administrative Services as the "Director". Section 1215.9 relating to methods of requesting records and appeals from denials has been moved and becomes § 1215.6.

In consideration of the above, Part 1215 of Chapter XII, Title 45 of the Code of Federal Regulations is amended as set forth below. The effective date of these amendments shall be April 29, 1975.

Sec.
1215.1 Purpose.
1215.2 Definitions.
1215.3 Records generally available.
1215.4 Availability of records.
1215.5 Records which may be exempt from disclosure.
1215.6 Manner of requesting records—Appeals.
1215.7 Authority to release and certify records.
1215.8 Location of records.
1215.9 Identification of records.
1215.10 Schedule of fees.

AUTHORITY: Sec. 412, Pub. L. 93-113, 87 Stat. (5 U.S.C. 552).

§ 1215.1 Purpose.

The purpose of this part is to prescribe rules for the inspection and copying of opinions, policy statements, staff manuals, instructions, and other records of ACTION pursuant to 5 U.S.C. 552.

§ 1215.2 Definitions.

As used in this part, the following definitions shall apply:

(a) "The Agency" means ACTION.

(b) "Records" includes all books, papers, maps, photographs, or other documentary material or copies thereof, regardless of physical form or characteristics, made in or received by ACTION and preserved as evidence of its organization, functions, policies, decisions, procedures, operations or other activities, but does not include books, magazines, or other materials acquired solely for library purposes and available to any officially designated library or the agency.

(c) "Identifiable" means, in the context of a request for a record, one which is reasonably described in a manner sufficient to permit the location of the material requested.

(d) "Unit" means an office of the Agency headed by a senior official who shall be responsible for making initial determinations of availability of documents or records requested hereunder. The head of any such Unit may delegate his responsibility hereunder to his Deputy or some other official during any absence of such official. At present, the units of the Agency for the purposes hereof consist of, the Office of the Director; the Office of Domestic and Anti-Poverty Operations; the Office of International Operations; the Office of Policy and Planning; the Office of Administration and Finance; the Office of General Counsel; the Office of Congressional Affairs; the Office of Minority Affairs; the Office of Recruitment and Communications, the ten domestic regional offices, and the three regional offices in the Office of International Operations.

§ 1215.3 Records generally available.

The agency will make promptly available to any member of the public the following documents:

(a) All final opinions and orders made in the adjudication of cases;

(b) Statements of policy and interpretation adopted by the office which have not been published in the FEDERAL REGISTER;

(c) Administrative staff manuals and instructions to the staff which affect a member of the public;

(d) A current index, which shall be updated at least quarterly covering so much of the foregoing materials as may have been issued, adopted or promulgated after July 4, 1967 is maintained by the Agency and copies of same or any portion thereof shall be furnished upon request at a cost not to exceed the cost of duplication. The Agency deems further publication of such index in the FEDERAL REGISTER both unnecessary and impractical.

(e) To the extent necessary to prevent a clearly unwarranted invasion of personal privacy, the Agency may delete identifying details from materials furnished under this section.

(f) Brochures, flyers and other similar material shall be furnished to the extent that same are available copies of any such brochures and flyers which are out of print shall be furnished upon request at the cost of duplication, provided, however, that in the event no copy exists, the Agency shall not be responsible for reprinting the same.

(g) The Agency will not be required to create or compile selected items from its file and records or to provide a requester with statistical or other data unless such data has been compiled by the Agency and is available in the form of a record in which event such record shall be made available as provided in this part.

§ 1215.4 Availability of records.

All records of ACTION, in addition to those ordinarily maintained and disseminated under § 1215.3 hereof requested under 5 U.S.C. 522(a)(3) and reasonably described in any request therefor shall be made promptly available upon request of any member of the public for inspection or copying upon compliance with procedures established in this part except to the extent that a determination is made, in accord with the procedures set forth herein, that a record is exempt from disclosure, and should be withheld in the public interest. All publications and other documents heretofore provided by ACTION in the normal course of business will continue to be made available upon request to the appropriate unit of the agency. No charge will be made for such documents unless necessary by reason of the fact that such document is no longer in print in which case the charge shall not exceed the cost of duplication as set forth herein.

§ 1215.5 Records which may be exempt from disclosure.

The following categories are examples of records maintained by ACTION which, under the provisions of 5 U.S.C. 552(b) may be exempted from disclosure:

(a) Records required to be withheld under criteria established by an Executive Order in the interest of national defense or foreign policy and which are in fact properly classified pursuant to any such Executive Order. Included in this category are records required by Executive Order No. 11652, as amended, to be classified in the interest of national defense or foreign policy.

(b) Records related solely to internal personnel rules and practices. Included in this category are internal rules and regulations relating to personnel management and operations which cannot be disclosed to the public without substantial prejudice to the effective performance of a significant function of the Agency.

(c) Records specifically exempted from disclosure by statute.

(d) Information of a commercial or financial nature including trade secrets given in confidence. Included in this category are records containing commercial or financial information obtained from any person and customarily regarded as privileged and confidential by the person from whom they were obtained.

(e) Interagency or intra-agency memoranda or letters which would not ordinarily be available by law to a party in litigation with the Agency. Included in this category are memoranda, letters, interagency and intra-agency communications and internal drafts, opinions and interpretations prepared by staff or consultants and records of deliberations of staff, ordinarily used in arriving at policy determinations and decisions.

(f) Personnel, medical and similar files. Included in this category are personnel and medical information files of staff, volunteer applicants, former volunteers, and volunteers, lists of names and home addresses, and other files or material containing private or personal information, the public disclosure of which would violate a pledge of confidentiality and amount to a clearly unwarranted invasion of the privacy of any person to whom the information pertains.

(g) Investigatory files. Included in this category are files compiled for the enforcement of all laws, or prepared in connection with government litigation and adjudicative proceedings, provided however, that such records shall be made available to the extent that their production will not (1) interfere with enforcement proceedings; (2) deprive a person of a right to a fair trial or an impartial adjudication; (3) constitute an unwarranted invasion of personal privacy; (4) disclose the identity of a confidential source, and in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful security intelligence investigation, confidential information furnished by a confidential source; (5) disclose investigative techniques and procedures; or (6) endanger the life or physical safety of law enforcement personnel.

(h) In the event any document or record requested hereunder shall contain material which is exempt from disclosure under this section, any reasonably segregable portion of such record shall, notwithstanding such fact, and to the extent feasible, be provided to any person requesting same, after deletion of the portions which are exempt under this section.

(i) Documents or records determined to be exempt from disclosure hereunder may nonetheless be provided upon request in the event it is determined that the provision of such document would not violate the public interest or the right of any person to whom such information might pertain, and that disclosure is not prohibited by law or Executive Order.

§ 1215.6 Manner of requesting records—Appeals.

(a) Requests under the Freedom of Information Act (5 U.S.C. 552) for access to ACTION records may be filed in person or by mail with the Director of Administrative Services of the aforesaid at ACTION headquarters, 806 Connecticut Avenue NW., Washington, D.C. 20525. Requests for records of a domestic regional or state office may be filed in person or by mail with the records officer of the respective Domestic Regional Office. All requests and the envelope in which they are sent must be plainly marked "FOI Request". Personal requests will be received from between 10 a.m. and 4 p.m., Monday through Friday, except for official holidays.

(b) Requested records which are reasonably described shall either be made available within ten working days after receipt of any such request or a written notice that the request cannot be complied with shall be provided to the person making such request within such 10 day period. Any such notice of inability to comply shall specify the reasons for refusal and the right of the person making such request to appeal such adverse determination. In the event a request for a record or document is made to a Regional Records Officer of the Agency or to the Director of Administrative Services, and such office does not have the requested material, the requester shall be immediately so notified. Such notice shall specify the Regional or other office of the Agency where such material is to be found or where it is normally maintained. The requester may then resubmit his request, or request the office which provides the notice to forward the original request to the proper Domestic Regional Office or the central office as may be appropriate. The request shall be deemed received when actually received by the appropriate office.

(c) Upon receipt of a notice of failure to comply, a person making a request for information, records, or documents may, within 15 calendar days from the receipt of such notice, appeal such adverse determination to the Deputy Director of ACTION. Such appeal shall be in writing and shall specify the date upon which the notice of failure or refusal to comply was received by the person making such request. The Deputy Director shall make determination with respect to such appeal within 20 working days after receipt of such appeal. Notice of such determination shall be provided to the person making the request in writing. If the original denial of the request for records is upheld in whole or in part, such notice shall include notification of the right of the person making such request to have judicial review of the denial and appeal as provided under the Freedom of Information Act (5 U.S.C. 552).

(d) The time limits specified above for initial compliance, and appeal from a refusal to comply, may be extended by the Agency upon written notice to the person making such request which notice shall set forth the reasons for such extension and the date upon which determination is expected. Such extension may be applied at either the initial stage or the appellate stage, or both, provided that the aggregate of such extensions shall not exceed ten working days. Circumstances justifying an extension shall include the following:

(1) Time necessary to search and collect requested records from segments of the agency separate from the office processing the request;

(2) Time necessary to search, collect and appropriately examine a voluminous number of records demanded in a single request; or

(3) Time necessary for consultation with another agency having a substantial interest in the determination of the request, or among two or more components of the agency which have an interest in the subject matter of the request.

(e) The time limits provided in this section are mandatory and a person requesting records shall be deemed to have exhausted his administrative remedies with respect to such request in the event the Agency fails to comply within the said applicable time limit provisions as extended in accord with this section. In unusual circumstances in which additional time is necessary to collect and review the records requested, the Act provides that a court of appropriate jurisdiction may allow the agency additional time for such purpose. Alternatively, the Agency and the person making such request may agree as to a reasonable time for completion of Agency work upon such request.

(f) Any notification of denial of any request for record under this subsection shall set forth the names and titles or positions of the person primarily responsible for the denial of such request.

(g) Upon receipt of a request for a record or document the Director of the Office of Administrative Services or the Regional Records Officer will promptly make an initial determination as to whether the request for the record reasonably describes such record with sufficient specificity to determine the unit of the Agency to which such request should

be referred. Upon making such initial determination, he shall immediately refer such request to the head of the unit concerned. Upon receipt of the request the head of the unit shall promptly determine whether the description of the record contained in the request is sufficient to permit its identification and production.

(h) If the Director of Administrative Services, the Regional Records Officer or the head of the unit concerned determines that the description contained in the request is not sufficient to reasonably describe the record requested, the requester shall be so advised and shall be permitted to amend the request to provide any additional information which would better identify the record. The requester shall be provided with appropriate assistance from the head of the unit concerned, the Director of Administrative Services, the Regional Records Officer or any member of their staff. A request which is amended in accord herewith shall be deemed to have been received by the Agency on the date of receipt of the amended request.

(i) If the head of the unit concerned determines that the record requested is reasonably described so as to permit its identification, he shall make it available unless he determines, after consultation with the General Counsel, that (1) the record is exempt from disclosure and (2) it should be withheld in the public interest or to protect the rights of persons to whom the information pertains. When such a determination is made the requester shall be immediately notified in writing as provided herein.

(j) ACTION/Peace Corps offices overseas are not responsible for maintenance of any indexes, documents, or records other than materials normally kept and maintained in such offices. Insofar as they do have any materials, they will make them available upon written or oral request of citizens of the United States who are present in their respective countries addressed to the Director, Peace Corps, c/o American Embassy in the applicable country. Such requests shall be treated informally and as expeditiously as possible. In the event any such request is received for information which might be exempt from disclosure under the provisions of § 1215.5 hereof, a copy of the material and the request together with any recommendation shall be forwarded to the Director of Administrative Services for reference to the Associate Director for International Operations and the General Counsel. Such a request shall be considered received upon receipt in the office of the Director of Administrative Services.

(k) ACTION maintains offices in most States, usually in the State capitol. These offices are not responsible for maintaining indexes, reading rooms, or other records or documents other than those normally kept and maintained in such offices. Insofar as they do have any materials, they will make them available upon written or oral request directed to the State Director. Such requests shall be treated informally and as expeditiously as possible. State Directors shall not deny any request for information which reasonably describes the material sought without the approval of the Regional Director and the Office of General Counsel. In the event the State Director determines and is advised that requested information should be withheld, he shall inform the requester to make a formal request to the proper Regional Office or the Director of Administrative Services, for appropriate determination. Requests made to other domestic ACTION offices or facilities shall be handled in the same manner.

§ 1215.7 Authority to release and certify records.

(a) Authority is hereby delegated to the Director of Administrative Services, Office of Administration and Finance, to furnish, pursuant to these regulations, copies of records to any person entitled thereto, and upon request to provide certified copies thereof for use in judicial proceedings or other official matters as provided below.

(b) The Director of Administrative Services and his deputy, are hereby designated to act as authentication officers. When the authentication officer is unavailable, any other person within such office delegated by the Director may act in his place and stead. The authentication officer is hereby authorized to sign and initial certificates of authentication for and in the name of the Director of ACTION. The form of authentication shall be as follows:

In testimony whereof, I _____, Director of ACTION, have hereunder caused my name to be subscribed by the authentication officer of said agency at _____ _____ this _____ day of _____, 19__.

_____,
Director of ACTION.

By _____,
Authentication Officer, ACTION.

(c) The authentication officer is also hereby authorized to issue such statements, certificates, or other documents as may be required in connection with judicial proceedings or other official matters to show that, after thorough search of ACTION records, a requested record has not been found (See Rule 44(b), Federal Rules of Civil Procedure).

(d) Each Domestic Regional Director of ACTION shall designate a records officer who shall have the same authority as the Director of Administrative Services with respect to documents and records kept and maintained in Regional or State offices. Such records officers shall be responsible to the Director of Administrative Services for such reports as he may require with respect to the production and copying of records.

§ 1215.8 Location of Records.

(a) The Agency will maintain a central records room at its headquarters in Washington, D.C. The headquarters of ACTION is presently located at 806 Connecticut Avenue NW., Washington, D.C. The present location of the central records room shall be the ACTION library, the location of which may change from time to time. The specific location of the library may be determined by requesting such information from the ACTION receptionist in the Office of the Director of ACTION.

(b) The Agency has domestic regional offices in the following places:

Region I
John W. McCormack Federal Building
Room 1420
Boston, Massachusetts 02109

Region II
26 Federal Plaza
New York, New York 10007

Region III
320 Walnut Street
Philadelphia, Pennsylvania 19106

Region IV
730 Peachtree Street, NE.
Atlanta, Georgia 30308

Region V
1 North Wacker Drive
Chicago, Illinois 60606

Region VI
212 No. St. Paul Street
Dallas, Texas 75201

Region VII
Two Gateway Center
4th & State Street
Kansas City, Kansas 66101

Region VIII
Prudential Plaza Building
1050 17th St.
Denver, Colorado 80202

Region IX
100 McAllister Street
San Francisco, California 94102

Region X
1601 Second Avenue
Seattle, Washington 98101

Although it may not always be feasible in these offices to set aside rooms for the exclusive or primary use of the public, every reasonable effort will be made to accommodate members of the public who wish to use regional office facilities for the purpose of inspecting and copying records. The office will also endeavor to maintain and have readily available in its regional offices general materials relating to the Agency available in the central records room. The Regional Records Officer shall receive and handle requests submitted pursuant to this part.

§ 1215.9 Identification of records.

(a) In order for the Agency to locate records and make them available it is necessary that it be able to identify the specific records sought. Persons wishing to inspect or secure copies of records should therefore seek to describe and identify them as fully and as accurately as possible. In cases where requests are submitted which are not sufficient to permit identification, the records officer receiving the request will endeavor to assist the person seeking the records in filling in necessary details.

(b) Among the kinds of information which a person seeking records should try to provide in order to permit an identification of a record are the following:

(1) The unit or program of the Agency which may be responsible for or may

have produced the record such as VISTA, Peace Corps, or UYA.

(2) The specific event or action, if any, and if known, to which the record refers.

(3) The date of the record or the period to which it refers or relates if known.

(4) The type of record, such as an application, a contract, a grant or a report.

(5) Personnel of the office who may have prepared or have knowledge of the record.

(6) Citation to newspapers or publications which are known to have referred to the record.

§ 1215.10 Schedule of fees.

(a) It is the policy of ACTION to encourage the widest possible distribution of information concerning programs under its jurisdiction. To the extent practicable, that policy will be applied under this part so as to permit requests for inspection or copies of records to be met without substantial cost to the person making the request. If a request for information does not involve substantial search time or reproduction costs, the information will be furnished without charge as a service to the public.

(b) The following charges will be made for any copies requested by a requester:

(1) Copies made by photostat or otherwise (per page)—$.10.

(2) Search services shall be charged for at the rate of $5 per hour. Such charge may be made whether or not the search is successful in producing the record requested.

(3) In the event a request for documents or records is received which does not state that the requestor will pay any and all reasonably necessary costs, or costs up to an amount specified in such request, and the head of the unit or the Director of Administrative Services determines that the anticipated cost for search and duplication of the records requested will be in excess of $25, or in excess of the limit specified in the request, the Director of Administrative Services shall so advise the requester promptly after receipt of the initial request. Such notification shall specify the anticipated cost of search and reproduction of the records requested. The requester may thereafter amend his request to specify fewer documents, or agree to accept the estimate of anticipated costs, in which case the request shall be deemed received by the Agency upon the date of the requester's response. A requester may, prior to making a request, ask for an estimate of cost from the Director of Administrative Services who shall promptly respond to such request.

(4) Payment shall be made to the Director of Administrative Services by cash or personal check, money order, etc., payable to ACTION. A receipt for any fees will be provided upon request.

(5) A requester may ask in his original request, or subsequently, that documents requested be furnished without charge or at a reduced charge. Upon receipt of such request the Director of Administrative Services shall refer such request to the Deputy Director or such official as he may designate who shall promptly determine whether such request should be complied with. Such request shall be complied with in event that it is determined that a waiver or reduction of fees is in the public interest because the furnishing of the documents or records requested will primarily benefit the general public. When such a request has been included in a request for documents or records or has been made subsequent thereto, the request shall not be deemed to have been received until a determination on the question of waiver or reduction has been made, provided however, that such determination shall be made within five working days from the date of receipt of any such request. A request for waiver or reduction of fees shall specify the amount of reduction requested and the reasons which cause the requester to feel that the public interest would be served by a waiver or reduction of fees.

Issued at Washington, D.C. on April 23, 1975.

JOHN L. GANLEY,
Deputy Director.

[FR Doc.75-11093 Filed 4-28-75;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER C—ACCOUNTS, RECORDS AND REPORTS

[No. 35129 (Sub-No. 4)]

PART 1249—REPORTS OF MOTOR CARRIERS

Quarterly Financial Reports of Class I Common and Contract Motor Carriers of Property-Selected Items From Statement of Financial Position

At a General Session of the Interstate Commerce Commission, held at its Office in Washington, D.C., on the 9th day of April 1975.

Past experience shows that in order for the Commission to properly monitor the financial condition of Class I motor carriers of prperty under ur Early Warning Program, it is necessary that we obtain certain balance sheet information not presently reported quarterly. The selected items are shown in the enclosed appendix.[1]

Because the selected information is readily available from the accounting records and is reported annually to the Commission, the addition of page 11 to Form QFR is not considered burdensome or controversial. Therefore, rulemaking proceedings under section 553 of the Administrative Procedure Act (5 U.S.C. 553) are unnecessary.

Wherefore, and for good cause appearing:

It is ordered, That quarterly report Form QFR for Class I Common and Contract Motor Carriers of Property is hereby revised as shown in the appendix to this order.

It is further ordered, That the prescribed amendment shall be effective for all quarters beginning with the first quarter in 1975 following receipt of the requisite clearance of the General Accounting Office.

It is further ordered, That service of this order shall be made on all Class I common and contract motor carriers of property; and to the Governor of every state and to the Public Utilities Commission or boards of each state having jurisdiction over transportation; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

NOTE: This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

(49 U.S.C. 304,320)

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-11204 Filed 4-28-75;8:45 am]

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[1] Filed as part of the original document.

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 993]

DRIED PRUNES PRODUCED IN CALIFORNIA

Proposed Increases in Expenses of the Prune Administrative Committee and Rate of Assessment for 1974–75 Crop Year

Notice is given of a proposal to increase the expenses of the Prune Administrative Committee, and rate of assessment, previously established (39 FR 37479) for the 1974–75 crop year. The proposal is pursuant to §§ 993.80 and 993.81 of the marketing agreement, as amended, and Order No. 993, as amended (7 CFR Part 993), regulating the handling of dried prunes produced in California. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was recommended by the Prune Administrative Committee.

On October 22, 1974, an action was published in the FEDERAL REGISTER (39 FR 37479) approving expenses of the Committee in the amount of $136,710, and a rate of assessment of $1.20 per ton, for the 1974–75 crop year. The approved expenses and assessment rate are set forth in § 993.325 of Subpart—Budget of Expenses and Rate of Assessment (7 CFR 993.325; 39 FR 37479). It now appears likely that the Committee will exceed these expenses and it is therefore proposed that they be increased to $154,100. In order to obtain sufficient funds to meet the proposed increase, it is also proposed that the assessment rate for the 1974–75 crop year be increased to $1.28 per ton.

Consideration will be given to any written data, views, or arguments pertaining to the proposal which are received by the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, no later than May 15, 1975. All written submissions made pursuant to this notice should be in quadruplicate and will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposal is to amend § 993.325 to read as follows:

§ 993.325 Expenses of the Prune Administrative Committee and rate of assessment for the 1974–75 crop year.

(a) *Expenses.* Expenses in the amount of $154,100 are reasonable and likely to be incurred by the Prune Administrative Committee during the crop year beginning August 1, 1974, for its maintenance and functioning and for such other purposes as the Secretary may, pursuant to the applicable provisions of the marketing agreement, as amended, and this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for such crop year which each handler is required, pursuant to § 993.81, to pay to the Prune Administrative Committee as his pro rata share of the said expenses is fixed at $1.28 per ton of salable prunes handled by him as the first handler thereof.

Dated: April 24, 1975.

CHARLES R. BRADER,
Acting Director,
Fruit and Vegetable Division.

[FR Doc.75–11167 Filed 4–28–75;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI–569]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination

Notice of proposed Flood Elevation Determination for the Borough of Somerset, Somerset County, Pennsylvania.

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for Somerset, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated his statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Mr. John Kane's Office, 340 West Union Street, Somerset.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor William C. James, 340 West Union Street, Somerset, Pennsylvania 15501. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community or July 28, 1975, whichever is the later.

The proposed 100-year Flood Elevations are:

Source of flooding and location	Elevation feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
		Left	Right
Coxes' Creek:			
Pennsylvania Turnpike	2,103	25	325
Turnpike Interchange	2,103	210	480
Center Ave.	2,101	220	660
Saylor St.	2,101	(1)	510
East Main St.	2,100	630	760
Parsons Run:			
Garrett St. (Extended)	2,100	760	1,310
Columbia Ave.	2,104	540	810
Edgewood Ave.	2,099	600	1,000

[1] Corporate limit.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: April 16, 1975.

J. ROBERT HUNTER,
Acting Federal
Insurance Administrator.

[FR Doc.75–11140 Filed 4–28–75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 75–CE–12–AD]

BEECH 18 SERIES AIRPLANES

Proposed Airworthiness directives

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an Airworthiness Directive (AD) applicable to all Beech 18 Series airplanes, including all military counterparts thereof and those modified under Supplemental Type Certificate (STC). Over the years, several ADs have been issued which require inspections at designated areas of the spar structure on

these aircraft. As these ADs were issued, the number of required inspections and the detail of the instructions for those inspections has constantly increased. At the present time, AD 72-20-5 (Amendment 39-1526), as amended by Amendment 39-1632, requires spar strengthening modifications of the wing center section to be completed by May 1, 1975. AD 73-18-4 (Amendment 39-1708) requires spar strengthening modifications for the outer wing panel to be completed by September 10, 1975. When those modifications are accomplished, ADs 72-20-5 and 73-18-4 were to be no longer applicable.

The foregoing actions were predicated on the assumption that the structure of these aircraft was sufficiently substantiated by the incorporation of excessive strength provisions into the design. Although this concept is still considered to be correct, at the time of certification of this aircraft there was no specific requirement for a fatigue analysis or fatigue testing because little was known of the loading patterns to be expected in service. Although the state of the art in this regard has progressed, the best test is service experience. Service experience is particularly important in this instance inasmuch as the first Model 18's were built in 1936 and the average age of a Model 18 is in excess of 20 years. During the 20-year life these aircraft have been subjected to varying degrees of usage and maintenance, some of which may have been abusive. The airworthiness directive action to date which provided for periodic inspections at various wing stations and modifications of the wing structure in order to prevent structural failure of the spar and wing separation no longer appears adequate. While sound in concept, they have not been completely effective in practice. In addition, the spar strengthening modifications do not incorporate failsafe or safe life design concepts of the current regulatory requirements. Since there exist no reliable means of detecting fatigue damage before its occurrence, it is essential that the fatigue crack damage be detected as soon after it occurs as is physically possible. The previously mentioned ADs were attempts to achieve this goal. Experience has now shown that the desired goal is not being fully achieved. The manufacturer has now furnished engineering data and analyses regarding permissible safe life parameters for the basic wing of the Model 18. On the basis of reports received as the result of these ADs, inspections, service history, subsequent evaluations, and analysis of X-rays and the aircraft structure, the FAA and the manufacturer now believe it is essential that a safe life or a fatigue life be established for the basic wing. Based upon these reports and on a review of the type certification records, service experience and limited test data applicable to this airplane, the FAA has determined that the wing structure is service-life limited and that exceeding the service lives proposed in this AD could result in in-flight fatigue failure of the wing with catastrophic results. Since this condition is likely to exist or develop in other airplanes of the same type design, this proposed AD requires the retirement of the aircraft wing components before exceeding the specified service life.

Accordingly, an AD applicable to all Beech 18 series airplanes is being proposed that establishes fatigue or safe life for the basic wing configuration. The life limits proposed in this AD are the result of computations based upon the basic stress data supplied by the manufacturer utilizing current FAR criteria and DOT/FAA report AFS-120-73-2 methods. As best can be determined, such factors as residual stresses, stress concentration due to welding, gussets, welded tube design, etc., have been considered. In addition, existing documented service history, fatigue cracks, failures, previous inspections, etc., have all been taken into consideration.

Since many of these aircraft have been modified without consideration of the effects of fatigue, this AD proposes to limit the aircraft fatigue life of all aircraft based upon original design, gross weight and stress/G data. No credit can be given for wing modifications until a full evaluation of each wing modification can be accomplished. The STC holders must submit adequate design and stress data to the Chief, Engineering and Manufacturing Branch, Central Region, in order to obtain an extension of the proposed life limits. Sufficient engineering data is not presently available to permit the establishment of greater safe lives for those aircraft modified in accordance with AD 73-18-4.

It is recognized that a number of these airplanes are approaching, and the majority have exceeded, the service life limits proposed herein.

As a result of the multitude of unknowns regarding the usage to which these airplanes have been subjected and the quality of inspection performed on them, as well as the uncertain fatigue characteristics of several of the STC modifications, an adopted Rule AD is being issued simultaneously with this proposed AD which will require a one-time inspection of the spar and spar modification components and submission of X-rays for evaluation on all aircraft. This inspection is to provide for the continued airworthiness of these aircraft pending development of a final rule under this notice of proposed rule making.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted by application to the Federal Aviation Administration, Office of the Regional Counsel, 1558 Federal Building, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before June 30, 1975 will be considered before action is taken upon the proposed rule. The proposals contained in this Notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Airworthiness Rules Docket for examination by interested persons.

(Secs. 313(a), 601 and 603 Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423), sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)))

BEECH. Applies to all Beech 18 Series airplanes including all military counterparts thereof and those Beech Model 18 airplanes modified in accordance with Supplemental Type Certificates.

Compliance: Required as indicated.

To prevent possible fatigue failure of the primary aircraft wing structure, accomplish the following:

(a) Except as provided in paragraph (c), before the accumulation of the total hours time-in-service specified in Column B for wing components of the various aircraft weights specified in Column A, or within 100 hours' time-in-service after the effective date of this AD, whichever occurs later, comply with paragraph (b).

A. Certified maximum gross weight	*B. Life limit hours time-in-service*
6,700 pounds	8,000 hours.
7,850 pounds	2,500 hours.
9,500 to 10,200 pounds	1,500 hours.

(b) Replace the wing center section and outboard wing panel with a part approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region, that has accumulated less time-in-service than the service life specified in Column B in (a) above. Thereafter, continue to replace wing components in accordance with the life limit hours' time-in-service specified in Column B in (a) above.

(c) A service life specified in Paragraph (a) may be extended if the wing center section and outboard wing panel are modified in accordance with an STC modification for which a specific service life beyond the accumulated service life of the aircraft's wing components has been approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

Issued in Kansas City, Missouri, on April 17, 1975.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc.75-10973 Filed 4-28-75;8:45 am]

Hazardous Materials Regulations Board

[49 CFR Part 179]

[Docket HM-103: Notice 75-3]

TANK CAR HEAD SHIELDS

Notice of Proposed Rulemaking

Correction

In FR Doc. 75-10500 appearing at page 17855 in the issue of Wednesday, April 23, 1975, in § 179.100-23 (a) (5) the fifth line from the bottom now reading "mounted on at least a ¾ inch thick" should read, "mounted on at least a ⅜ inch thick".

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. OSH-50]

CARCINOGENS: 4,4'-METHYLENE BIS 2-CHLOROANILINE

Proposed Standard; Extension of Time To File Post-Hearing Comments

On February 3, 1975, notice was published in the FEDERAL REGISTER (40 FR 4932), of a proposed standard for 4,4'-Methylene bis (2-chloroaniline) pursuant to the authority in section 6(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (Act), (84 Stat. 1593; 29 U.S.C. 655), Secretary of Labor's Order No. 12-71 (36 FR 8754), and 29 CFR Part 1911.

In accordance with that notice, an informal public hearing was held, under section 6(b) of the Act and 29 CFR Part 1911, on April 1 and 2, 1975. At the conclusion of that hearing, the presiding Administrative Law Judge set April 24, 1975, as the final date for filing post-hearing comments.

Subsequent to the conclusion of the hearing, the Occupational Safety and Health Administration (OSHA) has received assurances that additional relevant information will be submitted by the National Institute for Occupational Safety and Health by the end of April 1975. Therefore, in order to provide for receipt of that, and other relevant, information and to allow a reasonable period for public comment, notice is hereby given that the period for filing post-hearing comments on the proposal for 4,4'-Methylene bis (2-chloroaniline) will be extended to May 30, 1975.

(Secs. 6, 8(g), Pub. L. 91-596, 84 Stat. 1593, 1600 (29 U.S.C. 655, 657), Secretary of Labor's Order No. 12-71 (36 FR 8754))

Signed at Washington, D.C., this 24th day of April 1975.

JOHN STEINER,
Assistant Secretary of Labor.

[FR Doc.75-11175 Filed 4-28-75;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

[Public Notice CM-5/40]

SHIPPING COORDINATING COMMITTEE

Meeting

A meeting of the Shipping Coordinating Committee will be held at 9:30 a.m. on Thursday, May 22, 1975, in Room 6200 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C. The meeting will be open to the public.

The purpose of this meeting is to discuss preparations for the thirty-fourth session of the Intergovernmental Maritime Consultative Organization (IMCO) Council, scheduled to meet in London June 2–6, 1975. At its thirty-fourth session, the IMCO Council will consider, among other things, the following items:

The reports of the IMCO Maritime Safety Committee, Marine Environment Protection Committee, Legal Committee, Facilitation Committee, and Committee on Technical Cooperation;

Reports on the outcome of the International Conference on Safety of Life at Sea, 1974, the International Legal Conference on the Carriage of Passengers and their Luggage on Board Ships, 1974, and the International Conference on the Establishment of an International Maritime Satellite System, 1975;

Personnel and financial matters;

Long-term work program of the Organization;

Preparations and provisional agenda for the ninth regular session of the IMCO Assembly;

Report of the Ad Hoc Working Group to Study Proposals for Amending the IMCO Convention.

Further information on this Shipping Coordinating Committee meeting may be obtained from the Committee's Chairman, Richard K. Bank, Director, Office of Maritime Affairs, Department of State, 20520, telephone (area code 202) 632-0704.

Members of the public may submit written comments to the Chairman prior to May 16. The Chairman will, as time permits, entertain oral comments from members of the public attending the meeting.

RICHARD K. BANK,
Chairman,
Shipping Coordinating Committee.

APRIL 22, 1975.

[FR Doc.75-11095 Filed 4-28-75;8:45 am]

[Public Notice CM-5/39]

STUDY GROUP 1 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL TELEGRAPH AND TELEPHONE CONSULTATIVE COMMITTEE (CCITT)

Meeting

The Department of State announces that Study Group 1 of the U.S. CCITT National Committee will meet on May 15, 1975 at 10:00 a.m. in Room 752 of the Federal Communications Commission, 1919 M Street NW., Washington, D.C. This Study Group deals with U.S. Government regulatory aspects of international telephone (including maritime mobile) operations and tariffs.

The agenda of the May 15 meeting concerns continuation of previously commenced (see 39 FR 29391, 8/15/74) preparatory activities looking to participation in scheduled meetings of the joint working party of CCITT Study Groups I and II—maritime service. The joint working party held its first meeting January 27–February 4, 1975 to continue development of responses for maritime mobile service accounting and operational procedures which were referred to it by the World Maritime Administrative Radio Conference of 1974.

The meeting will be open to the public and comments will be entertained in accordance with the instructions of the Chairman.

Members of the general public who desire to attend the meeting on May 15 will be admitted up to the limit of the capacity of the meeting room.

Dated: April 18, 1975.

RICHARD T. BLACK,
Chairman,
U.S. National Committee.

[FR Doc.75-11096 Filed 4-28-75;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

VINYL CLAD FENCE FABRIC FROM CANADA

Tentative Negative Determination; Antidumping

Information was received on September 27, 1974, that vinyl clad fence fabric from Canada was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of an Antidumping Proceeding Notice which was published in the FEDERAL REGISTER on October 29, 1974, on page 38117.

I hereby make a tentative determination that vinyl clad fence fabric from Canada is not being, nor is likely to be, sold at less than fair value within the meaning of the section 201(a) of the Act (19 U.S.C. 160(a)).

Statement of reasons on which this tentative determination is based:

An analysis of information from all sources reveals that for fair value purposes the proper basis of comparison is between the purchase price and the adjusted home market price of identical merchandise.

Purchase price was calculated on the basis of a packed f.o.b. delivered to U.S. customer price. Deductions were made for freight, Customs duties, brokerage charges, cash discounts, quantity discounts, and selling commissions, and an addition was made for the Canadian federal sales tax included in the home market price of identical merchandise.

Home market price was based on the packed f.o.b. delivered to Canadian customer price, with deductions for freight and cash discounts, and adjustments for quantity discounts and selling commissions. Packing costs were identical in both markets.

Using the above criteria, purchase price was found to be greater than the home market price of the imported merchandise.

In accordance with §§ 153.33(a) and 153.37, Customs regulations (19 CFR 153.33(a), 153.37), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, NW., Washington, D.C. 20229, in time to be received by his office not later than May 9, 1975. Such requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or argument should likewise be addressed to the Commissioner of Customs in time to be received by his office on or before May 29, 1975.

This tentative determination and the statement of reasons therefor are published pursuant to § 153.33 of the Customs regulations (19 CFR 153.33).

[SEAL] DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

APRIL 24, 1975.

[FR Doc.75-11206 Filed 4-28-75;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

SCIENTIFIC ADVISORY BOARD

Meeting

APRIL 24, 1975.

The USAF Scientific Advisory Board Study Group on Management and Support of Air Force Command, Control and Communications will hold a meeting on 15 May 1975, from 8:30 a.m. to 5 p.m. at Headquarters, Air Force Systems Command, Andrews Air Force Base, Maryland.

The meeting will be closed to the public in accordance with Title 5, U.S.C. 552(b) (1), (4) and (5). The Study Group will meet in Executive Session to review information provided in previous meetings and to develop a consensus on the pertinent issues. These discussions will include classified and proprietary information and involve planning for future activities of the Group.

For further information, contact the Scientific Advisory Board Secretariat on 202-697-8845.

JACK R. BENSON,
Colonel, USAF,
Director of Administration.

[FR Doc.75-11099 Filed 4-28-75;8:45 am]

Department of the Navy

NAVAL RESEARCH ADVISORY COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given of a closed meeting of the Secretary of the Navy Oceanographic Advisory Committee scheduled for Wednesday and Thursday, May 28 and 29, 1975. The meeting will commence at 9:00 a.m. on both days, at the facilities of the Oceanographer of the Navy, 200 Stovall Street, Alexandria, Virginia. The purpose of the meeting is to solicit the advice of the committee concerning various ocean science, ocean operations, and ocean engineering programs being conducted by the Navy in connection with the national defense effort, which are classified in the interest of national security.

The meeting will be closed to the public as authorized by section 10(d) of the Act because the Secretary of the Navy has determined in writing that the meeting will be concerned with matters listed in section 552(b)(1) of title 5, United States Code.

WILLIAM O. MILLER,
Rear Admiral, JAGC, U.S. Navy,
Acting Judge Advocate General.

APRIL 21, 1975.

[FR Doc.75-11037 Filed 4-28-75;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

YANKTON SIOUX TRIBE

Plan for Use and Distribution of Judgment Funds Awarded in Docket 332-B Before Indian Claims Commission

APRIL 21, 1975.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

The Act of October 19, 1973 (Pub. L. 93-134, 87 Stat. 466), requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated by the Act of October 31, 1972, 86 Stat. 1518, in satisfaction of an award granted to the Yankton Sioux Tribe in Indian Claims Commission Docket 332-B. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated October 1, 1974, and was received (as recorded in the Congressional Record) by the House of Representatives on October 3, 1974, and by the Senate on October 8, 1974. Neither House of Congress having adopted a resolution disapproving it, the plan became effective on February 7, 1975, as provided by section 5 of the 1973 Act, supra.

The plan reads as follows:

The funds appropriated by the Act of October 31, 1972 (86 Stat. 1518), in satisfaction of the award granted to the Yankton Sioux Tribe in Docket 332-B before the Indian Claims Commission, including all interest accrued, less attorney fees and litigation expenses, shall be used and distributed as herein provided:

The Secretary of the Interior shall make a per capita distribution of eighty (80) percent of the judgment fund principal, and its accrued interest, in a sum as equal as possible to each member of the Yankton Sioux Tribe who was born on or prior to and is living on the approval date of this plan.

The shares of living competent adults shall be paid directly to them. The shares belonging to minors, legal incompetents and deceased persons shall continue to be invested as individual Indian money or disposed of in accordance with Departmental regulations governing estates (43 CFR 4.200-4.297), whichever is applicable.

The programing aspect of this plan shall consist of the utilization of twenty (20) percent of the judgment fund principal, and its accrued interest, for the following purposes, all subject to the review and approval of the Secretary: (1) Land Purchase and Development Fund (10 percent); (2) Higher Education Fund (2½ percent); (3) Elderly and Handicapped Fund (2½ percent); (4) Community Development Fund (2½ percent); and (5) Miscellaneous Fund (2½ percent).

MORRIS THOMPSON,
Commissioner of Indian Affairs.

[FR Doc.75-11092 Filed 4-28-75;8:45 am]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Dr. Robert W. McFarlane, Savannah River Ecology Laboratory, Post Office Drawer E, Aiken, South Carolina 29801.

OMB NO. 42-R1330

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (*Indicate only one*)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Request permission to band (with USF&W Service bands and colored plastic bands) Red-cockaded Woodpeckers, Dendrocopos borealis

3. APPLICANT. (*Name, complete address and phone number of individual, business, agency, or institution for which permit is requested*)
Dr. Robert W. McFarlane
Savannah River Ecology Laboratory
P.O. Drawer E
Aiken, South Carolina 29801
tel. FTS 803-642-2472

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☒ MR. ☐ MRS. ☐ MISS ☐ MS.

HEIGHT	WEIGHT
5'8"	145

DATE OF BIRTH	COLOR HAIR	COLOR EYES
26 Dec 1933	brown	blue

PHONE NUMBER WHERE EMPLOYED	SOCIAL SECURITY NUMBER
see above	224-38-1715

OCCUPATION
Ornithologist

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
Savannah River Ecology Laboratory
Institute of Ecology
University of Georgia

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Savannah River Plant of the
U.S. Energy Development and
Research Administration
Aiken, South Carolina

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(*If yes, list license or permit number*)
Master Banding Permit 20528

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☒ NO
(*If yes, list jurisdiction and type of document*)
no action taken pending approval of this permit.

9. CERTIFIED CHECK OR MONEY ORDER (*If applicable*) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$

10. DESIRED EFFECTIVE DATE
15 May 1975

11. DURATION NEEDED
Three years

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (*See 50 CFR 13.12(a)*) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (*In ink*) Robert W McFarlane — DATE 5 March 1975

3-200
05/74 Robert W. McFarlane

The 200,000 acre Savannah River Plant (SRP) of the U.S. Energy Research and Development Administration currently harbors a small population of the endangered Red-cockaded Woodpecker, *Dendrocopos borealis*. The exact size of the population is unknown but a brief survey indicates that it may be diminishing. Most of the SRP is forested and actively managed for pulp and timber production by the U.S. Forest Service.

It has recently been established that several active colonies of Red-cockaded Woodpeckers are within or adjacent to timber units which are to be harvested (including clearcutting) in accordance with current management practices. The U.S. Forest Service has located and mapped all known Red-cockaded Woodpecker cavity trees but these data are several years old and some of the colonies are not presently occupied by woodpeckers. There are no estimates of the total population of birds, past or present.

I propose to capture and band, with a unique combination of one aluminum service band and three colored plastic bands, as many birds as possible. This will allow individual recognition of each bird in the field and greatly facilitate population estimates and the correlation of observed feeding behavior, foraging range, and clan relationship with the sex and age of the bird as determined at the time of banding.

Extended observations of individual birds will permit a more accurate estimation of territory size and the extent of foraging in specific areas. With this information it is hoped that appropriate guidelines for forest management as it affects this species can be established.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before May 29, 1975, will be considered.

Dated: April 21, 1975.

LOREN K. PARCHER,
Acting Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.75-10911 Filed 4-28-75;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Lion Country Safari, Inc. Post Office Box 16066, State Road 80, West Palm Beach, Florida 33406; Mr. Harry Shuster, President, Mr. W. W. Dredge, Vice President.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Ship 6 tigers in interstate commerce in the course of a commercial activity for breeding. From LCS, Inc. - Laguna Hills, California to Lion Country Safari - West Palm Beach, Florida

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
LION COUNTRY SAFARI, INC.
P.O. Box 16066 - St. Rd. 80
West Palm Beach, Florida 33406
Phone: (305) 793-8084
Harry Shuster, Pres., WW Dredge, Vice Pres.

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OF KIND OF BUSINESS, AGENCY, OR INSTITUTION
African Wildlife Preserve & Tourist Attraction.

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. W.W. Dredge
(714) 837-1200 Vice President
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
Florida

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
LION COUNTRY SAFARI, INC.
St. Road 80
West Palm Beach, Florida

Fenced in wooded area.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit number)
PRT-6-4X-75Z

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ 50.00 Ck. #1092 - 12-18-74

10. DESIRED EFFECTIVE DATE
A.S.A.P

11. DURATION NEEDED

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 CFR 17.23

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) W.W. Dredge
DATE 3-20-75
W.W. Dredge / Vice President & Corp. Admin. Officer

3-200 (6/74)

17.23(A):

1. Tiger (*Panthera tigris*), six (6), 1½ years, 2.4 (two males, 4 females).
2. Consignor—Lion Country Safari, Inc.—Laguna Hills, California: Original Origin—3 tigers, 1.2, Baltimore Zoo; 1 tiger, 1.0, Washington Park, Indiana; 2 tigers, 0.2, Big Bell Ranch, California.
3. Transport 6 tigers 2.4 from Lion Country Safari, Inc., 8800 Moulton Parkway, Laguna Hills, California to Lion Country Safari, Inc., P.O. Box 16066, W.P.B., Florida 33406, for the purpose of propagation, commercial use.
4. 10 acre wooded area with a 12 ft. perimeter fence and a 8 ft. inner dividing fence with an electrical fence charger hooked up to fence. Numerous shade trees with a lake 200 ft. x 200 ft. New cement block huts 6 guage fence wire a run about 24 ft. x 24 ft. Total hut area is 44 ft. x 12 ft. Water supply is well water. Septic tank for drainage.
5. The wildlife to be transported to LCS Florida was born in captivity.
6. The tigers are already purchased and property of LCS—we would like to transfer them to Lion Country Safari, Inc. Florida.
7. Again the tigers are not being imported but transferred from LCS, Calif. to Florida.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before May 29, 1975, will be considered.

Dated: April 21, 1975.

LOREN K. PARCHER,
Acting Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.75-10912 Filed 4-28-75;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Dr. James A. Kushlan, Everglades National Park, Post Office Box 279, Homestead, Florida 33030.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Check one only)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Capture, mark, release and radio track American alligators in Everglades National Park to obtain information on population biology for preservation of species in the Park.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Dr. James A. Kushlan
Everglades National Park
P O Box 279
Homestead, Fla. 33030
(305) 247-6211 ext. 33

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☒ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT: 5'8" WEIGHT: 135
DATE OF BIRTH: 11 Oct 47 COLOR HAIR: Br COLOR EYES: Br
PHONE NUMBER WHERE EMPLOYED: (305) 247-6211 SOCIAL SECURITY NUMBER: 266-88-6898
OCCUPATION: Research biologist
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT:
Everglades National Park
Homestead, Fla. 33030

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
N/A
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Biological research in Everglades National Park, Fla.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit number)
Scientific collecting permit 4-SC-736-9/Banding permit 20247

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☒ NO
(If yes, list jurisdiction and type of document)
Fla. state permit. Will apply to amend applicants permit, if approved.

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: $ N/A

10. DESIRED EFFECTIVE DATE: 15 April 1975

11. DURATION NEEDED: 5 years

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR PARTS 13 MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
17.23(a) 1, 3, 4

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): James A. Kushlan
DATE: 11 Feb 1975

3-200 12/70 James A. Kushlan

DIRECTOR,
U.S. Fish and Wildlife Service, U.S. Department of the Interior, Interior Bldg., Washington, D.C. 20240.

DEAR SIR: I have enclosed an application for a permit to conduct a biological research program on the American Alligator in Everglades National Park. This study is necessary for the preservation of this species in the Park. Thank you for your consideration.

Sincerely,

JAMES A. KUSHLAN,
Research Biologist.

Dr. JAMES A. KUSHLAN,
Everglades National Park,
Homestead, Fla. 33030

CFR 17.23(a) 1:
Common name—American alligator
Scientific name—*Alligator mississippiensis*
Number covered—less than 200 animals per year
Age and sex—all ages, both sexes

CFR 17.23(a) 3:
This program will study the population biology of the American alligator in Everglades National Park, its purpose is to provide data on population structure, population levels, home range, nesting success and habitat use, and information on the role of the alligator in the southern Everglades. Its result will be information which will enable the Park Service to protect and preserve this species as part of the Everglades system in Everglades National Park.
Nest sites, nesting success and population levels will be censused by aerial and ground observation. Five study areas will be set up to include residential ponds and surrounding marshes. Resident and newly hatched alligators in each area will be individually marked with plastic tags inserted through dorsal scutes. Their activity and range will be monitored throughout the year. Observations on the interactions of individuals will be made. Radio transmitters will be attached to less than 40 individuals each year and their movements monitored from airplanes and on the ground. All captured animals will be released immediately after tagging.

CFR 17.23(a) 4:
Study will be conducted in Everglades National Park, Homestead, Florida.

CFR 17.23(a) 5, 6, 7:
N/A.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before May 29, 1975, will be considered.

Dated: April 21, 1975.

LOREN K. PARCHER,
Acting Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.75-10913 Filed 4-28-75;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205),

Applicant: Knoxville Zoological Park, 918 Beaman Street, Post Office Box 1631, Knoxville, Tennessee 37901; Guy L. Smith III, Director.

OMB NO. 42-R1470

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Exchanging One Male Jaguar Cub (Panthera onca) from Knoxville Zoological Park, Knoxville, Tennessee with One Male Jaguar (Panthera onca) from the Gladys Porter Zoo, Brownsville, Texas. Purpose of this exchange is to gain a new blood line for breeding at the Knoxville Zoological Park.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Knoxville Zoological Park
915 Beaman Street
P. O. Box 1631
Knoxville, Tennessee 37901
(615) 523-6561

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Zoological Park owned and operated by the City of Knoxville. Purpose is for exhibiting animals for general public and for conservation and education and research of these animals.

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. (615)
Guy L. Smith III, Director 523-6561

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
---

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Knoxville Zoological Park
Knoxville, Tennessee
In Exchange With
Gladys Porter Zoo
Brownsville, Texas
(Interstate Commerce)

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit number)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdiction and type of document)
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9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ 50.00

10. DESIRED EFFECTIVE DATE As Soon As Possible

11. DURATION NEEDED
One Day (24 hrs)

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 CFR 17

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) DATE 3/17/75

3-200 (3/74)

Guy L. Smith III

DIRECTOR,
U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

DEAR SIR: Please consider the following information as an application for a permit to exchange one (1) male Jaguar Cub, *Panthera onca*, an endangered species, from the Knoxville Zoological Park, with one (1) male Jaguar from the Gladys Porter Zoo, 500 Ringgold Street, Brownsville, Texas 78520. This request in in accordance with Public Law 93-205, as specifically indicated in Paragraph 17.23, 50 CFR 17.

The following information is the applicant's name and address: Mr. Guy L. Smith III, Director, Knoxville Zoological Park, 915 Beaman Street, P.O. Box 1631, Knoxville, Tennessee 37901.

This application for a permit to obtain an endangered species is a request for exchanging the following: One male Jaguar cub, scientific name *Panthera onca*, from the Knoxville Zoological Park, age: five (5) months with one male Jaguar, scientific name *Panthera onca*, from the Gladys Porter Zoo, age: thirteen (13) months.

The information which follows on the next four (4) pages is a detailed description of the purpose of our application.

The Knoxville Zoological Park is requesting a permit to exchange one (1) male Jaguar Cub, *Panthera onca*, for one (1) male Jaguar, *Panthera onca*, with the Gladys Porter Zoo in Brownsville, Texas. The purpose for this exchange is to gain a new blood line for breeding at the Knoxville Zoological Park.

The Knoxville Zoological Park, opened to the public since 1948, covers an area of 77 acres. Under the renovation now underway at the Knoxville Zoological Park, the zoo is all professionally designed to house animals for display and study. One of the primary objectives of the Knoxville Zoological Park is propagation of the following animals: African Lion, Siberian Tiger, Sumatran Tiger, Jaguars and Leopards (see Exhibit I, Page 1).

In 1971 the Knoxille Zoological Park began the program of acquiring animals of the above species (see Exhibit I, Pages 2-5). It was the decision to purchase and, or acquire young animals so they would become acclimated to the East Tennessee climate and become accustomed to the working staff and the terrain. To date, the Knoxville Zoological Park has successfully bred and received offspring from all of our big cats which have reached sexual maturity (see Exhibit I, Pages 6-9).

Our extensive program on breeding activities of big cats is being assisted by an instructor from the Zoology Department from the University of Tennessee, Mr. Ed Pavlik (see Exhibit II, Pages 1-2). We are also including a research paper in conjunction with the Knoxville Zoological Park's birth control program which was written by Dr. Pavlik (see Exhibit II, Pages 2a-2o). The Knoxville Zoological Park has worked closely with the University of Tennessee and has developed several meaningful programs with various colleges (see Exhibit II, Page 3).

Knoxville Zoological Park boasts one of the youngest and yet most qualified staffs. An attempt was made in our initial personnel selection to achieve a well-integrated staff with a wide range of abilities. It is our basic philosophy that the needs of a modern, progressive zoological park require certain technical skills and knowledge acquired through more formal channels of academic levels. At the same time, it is also felt that there is a great need at other levels of operation for the less formal and more practical skills and abilities involved in animal keeping. Attached is a list of our institutional staff including duties and qualifications. This list should more than illustrate what is meant by "integrated staff" (see Exhibit II, Pages 4a-4k).

The educational programs of the Knoxville Zoological Park are directly coordinated by the Curator of Education and are operated by a volunteer staff which presents guided tours for schools, presentations at schools, guided tours for groups, and lectures for general audiences. Zoo visitations have increased at an extremely rapid rate of speed over the past two years. Last year, 1974, over 400,000 people visited the Knoxville Zoological Park. The Appalachian Zoological Society (see Exhibit II, Page 5) which was formed in the latter part of 1971 with about 30 members, is one of the greatest promotional aids for the Zoo. With a two year goal of 3000, the Society today has over 800 members. They handle the Docent programs (see Exhibit II, Pages 6-7) and also have a monthly publication called Zoo View (see Exhibit II, Page 8).

The recording system at the Knoxville Zoological Park is greatly facilitated by the daily reports submitted from all zoo areas by Technicians, Senior Keepers and Keepers. The composite of each animal's individual file consists of information gained from this input. There are four (4) Technicians employed on a full-time basis and under the direct supervision of the Zoologist. Each Technician has a bachelor's degree from an accredited college or university in one of the biological sciences. Through their background of educational knowledge, each Technician is capable of supplying professional and technical views to help accommodate the individual animal record keeping system. A permanent record file is kept active in the zoo office on the entire animal inventory. These files are kept current by the Curator of Education and are open for inspection at all times.

Twenty-four hour security is maintained at the Knoxville Zoological Park by uniformed, commissioned officers (see Exhibit III, Page 1). With help from City of Knoxville Police who patrol streets surrounding the zoo perimeter, security is enforced to its fullest.

In our current $4,000,000.00 expansion which is still underway here at the Knoxville

Zoological Park, we have operated and designed enclosures with the philosophy that we will operate a zoo for animals in their natural habitat. As a result, all of our large cats are either in extremely large enclosures with a natural habitat environment, or they will be moved into this type of enclosure at some time in the near future. All of these enclosures are now under construction. As of this writing, construction is underway for the Jaguars and Leopards. Bengal Tigers and African Lions have been housed in very large enclosures for the past year. Under these natural environments, animals are more easily bred.

The Jaguar from the Knoxville Zoological Park will be shipped to Brownsville, Texas from Knoxville, Tennessee by way of commercial airline. It will be transported in an Airborne crate measuring 16' x 18' x 24'. The construction is all heavy gauge aluminum with rivets instead of nails or screws. Ventilation holes are located high on the crate sides for ventilation without draft. The door of the crate is designed with bars for better circulation and the inside of the crate has been treated to prevent discoloration of the Jaguar's coat. The Jaguar will have an ample water supply during the trip which will last only a few hours. A supply of food will accompany the Jaguar on the trip in case of any delay on route.

The policy of the Knoxville Zoological Park permits the zoo to group animals only in areas designed in conjunction with the animal's natural social habitat (see Exhibit III, Page 2). The male Jaguar acquired from the Gladys Porter Zoo in Brownsville, Texas will be housed at the Knoxville Zoological Park in a circular enclosure located in a field environment. The diameter of the whole enclosure measures 51 feet. Blueprints of the field enclosure and den area are attached (see Exhibit III, Pages 3–5). Also included is the blueprint of our present Jaguar housing facility (see Exhibit III, Pages 5a–5b) and the facilities for the Jaguar cubs (see Exhibit III, Page 5c).

Sanitation practices at the Knoxville Zoological Park are a daily routine (see Exhibit III, Page 6). The Zoo's own maintenance department is supported by other principal municipal departments when needed. All enclosures are disinfected at least once a week, and each animal is checked daily on its eating habits.

Diet for the Jaguar (see Exhibit III, Page 6) will consist of frozen feline *Zu-Preem* or a similar diet of its equal (see Exhibit III, Page 7). This feline diet contains multiple proteins including horse meat, eggs, livers, fish flour and rice. The Jaguar will be watered regularly and checked on its eating habits daily.

Medical care for all of the animals at the Knoxville Zoological Park is handled by Dr. William H. Montgomery, a licensed veterinarian (see Exhibit III, Page 8). The Jaguar will receive medical check-ups at regular intervals while at the Knoxville Zoological Park. Dr. Montgomery is available at all times for any type of emergency. He is also responsible for diet control for the animals.

Each animal in the zoo is on a balanced diet and are checked on a regular basis. Any changes in the hair coats are noted and discerned as to whether they are natural seasonal changes. Each animal is also checked periodically for internal parasites. These checks are the responsibility of the staff zoologist, and if he needs help in determining the identity of a particular parasite, he calls in the added assistance of the zoo veterinarian. The Zoologist does all flotation work at the zoo and will eventually have a laboratory especially for this type work in the new veterinary clinic. This clinic is now under construction (see Exhibit III, Page 9). Also, the new veterinary clinic will accommodate the lab work we are now having to send to the state laboratory or local hospitals.

I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in Subchapter B of Chapter I of this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001.

Very truly yours,

GUY L. SMITH III,
Zoo Director.

Documents and complete information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before May 29, 1975, will be considered.

Dated: April 21, 1975.

LOREN K. PARCHER,
Acting Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.75-10314 Filed 4-28-75;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93–205).

Applicant: Dr. Royal Dallas Suttkus, Tulane University, Systematic & Environmental Biology Lab., Box 46–B, Belle Chasse, Louisiana 70037.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE
LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (*Indicate only one*)
☐ IMPORT OR EXPORT LICENSE ☒ XX PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
to collect endangered fish species from Colorado River system between Glen Canyon and Hoover dams for scientific research.

3. APPLICANT. (*Name, complete address and phone number of individual, business, agency, or institution for which permit is requested*)
Dr. Royal Dallas Suttkus, Tulane Univ., Systematic & Environmental Biology Lab., Box 46-B, Belle Chasse, La. 70037
(504) 394-1711

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

☐ MR. ☐ MRS. ☐ MISS ☐ MS.	HEIGHT 5'10"	WEIGHT 165
DATE OF BIRTH 11 May 1820	HAIR COLOR Gray	EYES COLOR Green
PHONE NUMBER WHERE EMPLOYED (504) 394-1711	SOCIAL SECURITY NUMBER 287-12-3075	

OCCUPATION
Professor of Biology

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
(*List the type and kind of business, agency, or institution*)

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Curator-in-charge of Vertebrate Collections & Director of Systematic & Environmental Biology Laboratory

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
(a) scientific collecting in Colorado River system in Grand Canyon area
(b) interstate shipment of specimens from Arizona to Tulane University, Louisiana.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☐ NO *
(*If yes, list license or permit number*)
renewal requested as collaborator (WOC) Grand Canyon Nat'l Park

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(*If yes, list jurisdictions and type of documents*)
Requested renewal for Arizona permit. Research proposal submitted to Grand Canyon Nat'l Park.

9. CERTIFIED CHECK OR MONEY ORDER (*If applicable*) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
Request waiver as collaborator

10. DESIRED EFFECTIVE DATE: 22 April 1975
11. DURATION NEEDED: 31 Dec. 1976

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (*See 50 CFR 13.12*) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (*In ink*) Royal D. Suttkus — DATE 12 March 1975

3-200
15/74

* Will forward copy when available.

17.23(a):

(1) *Gila cypha* Humpback Chub.
Ptychocheilus lucius Squawfish.
Plagopterus argentissimus Woundfin.

Sample not to exceed (25) specimens (inclusive of all age groups and both sexes) of each species at any one collecting site at any one time. The qualifications are stated so that if a species is found at a particular site additional samples can be taken at other seasons to obtain life history data.

To my knowledge no recent specimens of either *Ptychocheilus lucius* or *Plagopterus argentissimus* have been taken from the main channel of the Colorado River in Arizona in recent years and there are only a few documented records of *Gila cypha* from the same area in recent years. Thus, my request of (25) specimens is indeed being over-optimistic but I would like to be able to keep a research-size sample should I discover an extant population and am able to devise a method of capture other than chemicals or explosives.

(2) Not applicable.

(3) I have made six float trips down the Colorado River between Lees Ferry (River Mile 0) and Temple Bar on Lake Mead (River Mile 312) from September 1970 to the present time.

My scientific interests are multiple. I have been interested in the status of native versus introduced fishes in the above mentioned section of the Colorado River as well as elsewhere in the entire state of Arizona. I have some specific systematic interests with the suckers and the minnows.

As of last fall I have been in correspondence with Dr. Roy Johnson, Research Scientist for Grand Canyon National Park. Dr. Roy Johnson, Research Scientist, Grand Canyon National Park, Box 129, Grand Canyon, Arizona 86023, (602) 638-2411.

Dr. Johnson visited Tulane University last December to discuss a cooperative research investigation in the inner gorge of the Colorado Canyon. I have submitted a tentative proposal and have agreed to make an initial boat trip in April-May, 1975 to coordinate our activities. I will be responsible for fishes and other vertebrate groups. In brief, the objective of the study is to obtain base-line data on status of animals and plants with reference to human activities (float trips and camping). All specimens will be considered as research material and will be deposited at Tulane University, National Museum of Natural History in Washington, D.C., and as yet an undetermined amount at the Grand/Canyon National Park Museum. All fish collections will be transported to Tulane University, processed and studied by the applicant and Dr. Glenn H. Clemmer. We have agreed to submit a preliminary report to the Grand Canyon National Park immediately after June, 1976 and a final report as soon thereafter as feasible.

Of course, all specimens will be available for loan to the scientific community at the completion of our study.

(4) Tulane University has one of the largest research collections of fishes in the United States. We now have over 93,000 cataloged lots which total more than 3 million specimens. All specimens are stored in isopropyl alcohol, in glass-top clamp jars and each jar has a complete label (high quality parchment paper). Types and rare and endangered species are housed in a separate fireproof room within the building. The fish range is housed in a renovated World War II ammunition storage bunker which has survived many hurricanes, including Betsy and Camille, without any damage whatsoever. (See enclosed reprint, "Type Specimens of fishes in the Tulane University collection with a brief history of the collection").

Address of research fish collection: Tulane University, Hebert Center, Systematic & Environmental Biology Lab., Route 1, Box 46-B, Belle Chasse, Louisiana 70037, (504) 394-1711.

(5) Not applicable.

(6) Not applicable.

(7) Not applicable.

(b) Not applicable.

An indication of my sincerity of interests with regards to the perpetuation of animal and plant species may be ascertained from the following listing of recent activities.

September 1974—Attended endangered vertebrate symposium in Tallahassee, Florida.

October 1974—Attended Chihuahuan Desert symposium in Alpine, Texas.

November 1974—Attended Desert Fishes Council meeting in Las Vegas, Nevada.

1973-1974—Attended several meetings in Jackson, Mississippi (see enclosed report, "A preliminary list of rare and threatened vertebrates in Mississippi").

March 1975—Attended endangered and threatened plants and animals of Alabama symposium at Tuscaloosa, Alabama. Results will be published.

All travel, food and room concerning these meetings have been at my personal expense. Dr. Clemmer and I submitted status sheets to your office for the Bayou Darter. *Etheostoma rubrum* and the Frecklebelly Madtom, *Noturus munitus*. I promise to forward all species status information to your office with regards to the species that will be covered by permit.

Respectfully submitted,

ROYAL D. SUTTKUS,
Professor of Biology.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before May 29, 1975, will be considered.

Dated: April 21, 1975.

LOREN K. PARCHER,
Acting Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service

[FR Doc.75-10915 Filed 4-28-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

OKLAHOMA GRAIN INSPECTION POINT

Grain Standards

Statement of considerations. The Enid Grain Inspection Company, Enid, Oklahoma, is designated to operate as an official inspection agency in accordance with the provisions of section 7(f) of the U.S. Grain Standards Act (7 U.S.C. 79 (f)). The Enid Grain Inspection Company has been providing official inspection service for more than 25 years at Enid, Oklahoma, as a designated inspection point and is presently providing official sampling service at Catoosa and Wagoner, Oklahoma. A designated inspection point is defined as a city, town, or other location assigned under the regulations to an official inspection agency for the conduct of official inspections, and within which the official inspection agency, or one or more of its licensed inspectors is located (7 CFR 26.1(b)(13)).

The Enid Grain Inspection Company now plans to locate one or more of its licensed grain inspectors at Catoosa, Oklahoma, and has requested that its assignment be amended in accordance with section 26.99(b) of the regulations (7 CFR 26.99(b)) to add Catoosa, Oklahoma, as a designated inspection point.

Notice is hereby given that the Agricultural Marketing Service has under consideration the request from the Enid Grain Inspection Company to add Catoosa, Oklahoma, as a designated inspection point under the U.S. Grain Standards Act.

Opportunity is hereby afforded all interested persons to submit written views and comments with respect to this matter to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250. All material submitted should be in duplicate and mailed to the Hearing Clerk not later than May 29, 1975. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Hearing Clerk and to all other information available to the U.S. Department of Agriculture before final determination is made with respect to this matter.

Done in Washington, D.C. on April 24, 1975.

E. L. PETERSON,
Administrator, Agricultural Marketing Service.

[FR Doc.75-11193 Filed 4-28-75;8:45 am]

Commodity Credit Corporation

GRAINS AND SIMILARLY HANDLED COMMODITIES

Final Date for Redemption of Warehouse-Storage Loans Made Under 1974 CCC Loan Programs

Unless demand is made earlier by CCC, warehouse-storage loans under 1974 loan

programs on the commodities listed in the table below mature and are due and payable on the dates indicated. Unless, on or before the final date for repayment specified below, such loans are repaid, title to the unredeemed collateral shall immediately vest in CCC, without a sale thereof, on the date next succeeding the final date for repayment specified below: *Provided*, That CCC will not acquire title to any commodity for which repayment has been mailed to the county ASCS office by letter postmarked (not patron postage meter date stamp) not later than the final date for repayment of such commodity. This notice applies to all such unredeemed collateral pledged to CCC under warehouse-storage loans. CCC shall have no obligation to pay for any market value which the unredeemed collateral may have in excess of the loan indebtedness; i.e., the unpaid amount of the note plus interest and charges. Nothing herein shall preclude making payment to a producer of any amount by which the settlement value of the pledged commodity may exceed the principal amount of the loan. The settlement value as used herein is the loan value of the pledged commodity determined on the basis of the weight, grade, and other quality factors shown on the warehouse receipts or accompanying documents in accordance with the applicable loan rate provided in the program regulations. Notwithstanding the foregoing provisions, if the producer has made a fraudulent representation in obtaining the loan or in settlement or deliveries under the loan or has converted all or any part of the loan collateral, the producer shall remain personally liable for the amount specified in the Warehouse Note and Security Agreement and in the loan program regulations.

Amounts due the producer will be paid to the producer by the appropriate county ASCS office.

	Maturity date	Final date of repayment
Barley:		
In Alaska, Idaho, Minnesota, Montana, North Dakota, Oregon, South Dakota, Washington, Wisconsin, and Wyoming	May 31, 1975	June 2, 1975
In all other States	Apr. 30, 1975	Apr. 30, 1975
Corn	July 31, 1975	July 31, 1975
Dry edible beans: In all States	Apr. 30, 1975	Apr. 30, 1975
Flaxseed:		
In Minnesota, Montana, North Dakota, South Dakota, and Wisconsin	May 31, 1975	June 2, 1975
In all other States	Apr. 30, 1975	Apr. 30, 1975
Grain sorghum:		
In the following counties in Texas and all counties south thereof: Austin, Bexar, Caldwell, Colorado, Comal, Galveston, Gonzales, Harris, Hays, Kinney, Lavaca, Medina Uvalde, Val Verde, and Waller	do	Do.
In Oklahoma and in counties in Texas north of those with an April 30 maturity date listed above	June 30, 1975	June 30, 1975
In all States except Texas and Oklahoma	July 31, 1975	July 31, 1975
Honey: In all States	June 30, 1975	June 30, 1975
Oats:		
In Alaska, Idaho, Michigan, Minnesota, Montana, North Dakota, Washington, Wisconsin, and Wyoming	May 31, 1975	June 2, 1975
In all other States	Apr. 30, 1975	Apr. 30, 1975
Rice: In all States	do	Do.
Rye: In all States	do	Do.
Soybeans: In all States	June 30, 1975	June 30, 1975
Tung oil: In all States	Oct. 31, 1975	Oct. 31, 1975

(Secs. 4 and 5, 62 Stat. 1070, as amended; secs. 101, 105, 107, 301, 401, 405, 63 Stat. 1051, as amended (15 U.S.C. 714b, c; 7 U.S.C. 1441, 1447, 1421, 1425))

Effective date: April 28, 1975.

Signed at Washington, D.C., on April 22, 1975.

GLENN A. WEIR,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.75-11048 Filed 4-28-75;8:45 am]

Forest Service

ROCK CREEK ADVISORY COMMITTEE

Cancellation of Regular Meeting

The meeting of the Rock Creek Advisory Committee originally scheduled for May 20, 1975, has been cancelled. This was in accordance with the wishes of the members of the Committee.

Instead, the meeting will be held June 17th. (Regular notice of the June meeting will be submitted later in May.)

ROBERT W. DAMON,
Forest Supervisor, Deerlodge National Forest.

[FR Doc.75-11186 Filed 4-28-75;8:45 am]

VEGETATION MANAGEMENT USING SELECTIVE HERBICIDES

Gifford Pinchot, Mt. Baker-Snoqualmie and Olympic National Forests, Washington; Availability of Draft Addendum

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft addendum to the final environmental statement for vegetation management using selective herbicides on the Gifford Pinchot, Mt. Baker-Snoqualmie, and Olympic National Forests, Washington, for the period July 1, 1975 through June 30, 1976. USDA-FS-R6-DES(Adm) 75-16.

The draft addendum concerns a proposed use of herbicides 2,4-D, 2,4,5-T, 2,4,5-TP, Amitrole-T, atrazine, picloram, dicamba and MSMA to reduce the competition from native vegetation where it hampers forest management activities in Washington. The proposed uses of the herbicides are for reforestation site preparation, release of conifers, right-of-way maintenance, maintenance of physical facilities, range improvement work, thinning and weeding of conifer plantations.

This draft addendum was transmitted to CEQ on April 21, 1975.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3231
12th & Independence Ave. SW.
Washington, D.C. 20250

USDA, Forest Service
Pacific Northwest Region
319 SW. Pine Street
Portland, Oregon 97208

Gifford Pinchot National Forest
500 West 12th Street
Vancouver, Washington 98660

Mt. Baker-Snoqualmie National Forest
1601 2d Avenue Building
Seattle, Washington 98101

Olympic National Forest
Federal Building
Olympia, Washington 98501

A limited number of single copies are available upon request to Regional Forester T. A. Schlapfer, Pacific Northwest Region, P.O. Box 3623, Portland, Oregon 97208.

Copies of the draft addendum have been sent to various Federal, state, and local agencies as outlined in the CEQ guidelines.

Written comments are invited from the public, and from state and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Written comments concerning the proposed action and requests for additional information should be addressed to Mr. T. A. Schlapfer, Pacific Northwest Region, P.O. Box 3623, Portland, Oregon 97208. Comments must be received by June 21, 1975 in order to be considered in the preparation of the final addendum.

H. W. PARKER,
Acting Regional Environmental Coordinator, Planning, Programming and Budgeting.

APRIL 21, 1975.

[FR Doc.75-11185 Filed 4-28-75;8:45 am]

Soil Conservation Service

CHIPPEWA AND LONG PRAIRIE HEADWATERS FISH AND WILDLIFE DEVELOPMENT WESMIN RC&D PROJECT, MINN.

Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973), and § 650.7(e) of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974), the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental impact statement (EIS) for the Chippewa and Long Prairie Headwaters Fish and Wildlife Development WesMin RC&D Project, Douglas, Grant,

Otter Tail and Pope Counties, Minnesota, USDA–SCS–EIS–RCD – (ADM) – 75–1–(D)–MN.

The EIS concerns a plan for public water-based fish and wildlife development, improvement in wildlife habitat, and improve water quality for water-based recreational activities. The planned works of improvement provide for 89 carp barrier control structures.

A limited supply is available at the following location to fill single copy requests:

Soil Conservation Service, USDA
200 Federal Building & U.S. Courthouse
316 North Robert Street
St. Paul, Minnesota 55101

Copies of the draft EIS have been sent for comments to various federal, state, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge or special expertise on environmental impacts.

Comments concerning the proposed action or request for additional information should be addressed to Harry M. Major, State Conservationist, Soil Conservation Service, 200 Federal Building & U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota 55101.

Comments must be received on or before June 3, 1975, in order to be considered in the preparation of the final environmental impact statement.

Dated: April 18, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.901, National Archives Reference Services)

ROBERT E. WILLIAMS,
Acting Deputy Administrator for Field Services, Soil Conservation Service.

[FR Doc.75–11074 Filed 4–28–75;8:45 am]

TOWN OF LIVINGSTON FLOOD PREVENTION (RC&D) MEASURE, LA.

Availability of Negative Declaration

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part 650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Town of Livingston Flood Prevention RC&D Measure, Livingston Parish, Louisiana.

The environmental assessment of this federal action indicates that the measure will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the measure. As a result of these findings, Mr. Alton Mangum, State Conservationist, Soil Conservation Service, USDA, Post Office Box 1630, 3737 Government Street, Alexandria, Louisiana 71301, has determined that the preparation and review of an environmental impact statement is not needed for this measure.

The measure concerns a plan for flood prevention. The planned works of improvement include enlarging 22,700 feet of existing earthen channels and 1500 feet of new channel, installing 25 grade stabilization and erosion structures and vegetation to control erosion of channel sideslopes.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA
3737 Government Street
Alexandria, Louisiana 71301

No administrative action on implementation of the proposal will be taken on or before May 14, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.901, National Archives Reference Services)

Dated: April 18, 1975.

ROBERT E. WILLIAMS,
Acting Deputy Administrator for Field Services, Soil Conservation Service.

[FR Doc.75–11075 Filed 4–28–75;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

TOWN & COUNTRY SHOES, INC.

Petition for Determination

A petition was filed on April 21, 1975, by Town & Country Shoes, Inc., of St. Louis, Missouri, under section 251 of the Trade Act of 1974 and in conformity with Adjustment Assistance Certification Regulations for Firms, 15 CFR, Part 350, 40 FR 14921 (April 3, 1975) (the "Regulations"). Consequently, the United States Department of Commerce has instituted an investigation to determine whether increased imports into the United States contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm. The petitioner asserts that imported articles classified in items 700.20, 700.41, 700.45, 700.55, 700.68, 700.70, 700.80, 700.83 and 700.85 of the Tariff Schedules of the United States Annotated (TSUSA) are like or directly competitive with footwear for women produced by the firm.

Any party having a substantial interest in the subject matter in the proceedings (as described in § 350.40(b) of the regulations) may request a public hearing on the matter. A request for a hearing conforming to § 350.40 of the regulations must be received by the Director, Office of Trade Adjustment Assistance, Room 3011, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

(Catalog of Federal Domestic Assistance Program No. 11.106, Trade Adjustment Assistance.)

HAROLD A. BRATT, Jr.,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.75–11105 Filed 4–28–75;8:45 am]

Maritime Administration

[Docket No. S–445]

PRAIRIE SHIPPING INC.

Application

Notice is hereby given that Prairie Shipping Incorporated, an Illinois corporation, has filed an application with the Maritime Subsidy Board pursuant to Title VI (46 U.S.C. 1171–1183) of the Merchant Marine Act, 1936, as amended (the Act) requesting operating-differential subsidy on three new (to be constructed) bulk-container-roll on/roll off vessels of approximately 33,000 deadweight tons each. Such vessels would provide approximately two sailings per month from the Great Lakes during open navigation, and Montreal (utilizing rail service from/to various United States points) during the winter season, to North European Continental ports in the carriage of cargoes in the foreign oceanborne commerce of the United States.

Any person having an interest in the granting of such application and who would contest a finding by the Maritime Subsidy Board that the service now provided by vessels of United States registry for carriage of cargoes, between U.S. Great Lakes ports and North European Continental ports, in the foreign oceanborne commerce of the United States is inadequate, must, on or before May 12, 1975, notify the Board's Secretary, in writing, of his interest and his position and file petition for leave to intervene in accordance with the Board's rules of practice and procedure (46 CFR Part 201).

Each such statement of interest and petition to intervene shall state whether a hearing is requested under 605(c) of the Merchant Marine Act, 1936, as amended, and with as much specificity as possible the facts that the intervenor would undertake to prove at such hearing.

In the event that a section 605(c) hearing is ordered to be held with respect to the applicant identified hereinabove, the purpose of such hearing will be to receive evidence relevant to whether the service already provided by vessels of U.S. registry, for movement of cargoes between U.S. Great Lakes ports and North European Continental ports, in the foreign oceanborne commerce of the United States is inadequate and whether, in the accomplishment of the purpose and policy of the Act, additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time or if the Maritime Subsidy Board determines that petitions for

leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such actions as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS))

Dated April 24, 1975.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.75-11194 Filed 4-28-75;8:45 am]

National Oceanic and Atmospheric Administration

SEA GRANT ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C., Appendix I (Supp. II, 1972), notice is hereby given of the meeting of the Sea Grant Advisory Panel on Wednesday and Thursday, May 28 and 29, 1975. The meeting will commence at 9 a.m. on both days in the National Marine Fisheries Service, Oxford Laboratory, Oxford, Maryland 21654. The meeting both days will be open to the public.

The agenda for the meeting will be as follows:

MAY 28, 1975

9 a.m. Preliminary remarks describing new offices, and introduction of a new panel member, R. Abel.

9:15 a.m. A. Institutional Proposal Discussion, SG Staff and panel. University of Rhode Island, Massachusetts Institute of Technology, University of Miami, Oregon State University, University of Michigan, University of Hawaii, Texas A&M University, University of Georgia, Louisiana State University, University of Wisconsin, University of California, University of Delaware.

B. Coherent Area Projects Discussion, SG Staff and panel. University of Alaska, University of South Carolina, Woods Hole Oceanographic Institution.

C. Sea Grant College Candidates, SG Staff and panel. The following universities are eligible on the basis of time to be considered for status as Sea Grant Colleges as of June 30, 1975: University of Michigan, University of Miami, University of North Carolina, University of Southern California, Massachusetts Institute of Technology, University of Delaware, Louisiana State University.

5 p.m. Adjourn.

MAY 29, 1975

9 a.m. Discussion of Dr. White's activities on behalf of Sea Grant: (1) Report to NACOA, (2) Preparation of Issue Paper.

9:45 a.m. Sea Grant National Projects.

11 a.m. Methods to improve Sea Grant Director's participation in policy formulation and planning of a national program.

12 noon. Lunch.

1 p.m. Discussion with Sea Grant Directors.

4 p.m. Adjourn.

Inquiries or statements should be addressed to:

Arthur G. Alexiou
Executive Secretary
Sea Grant Advisory Panel
National Oceanic and Atmospheric Administration (SG)
6010 Executive Boulevard
Rockville, Maryland 20852
Telephone (202) 634-4128

Dated: April 25, 1975.

R. L. CARNAHAN,
Acting Assistant, Administrator for Administration, National Oceanic and Atmospheric Administration.

[FR Doc.75-11233 Filed 4-28-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[FAP 5B3058]

EASTMAN CHEMICAL PRODUCTS, INC.

Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 5B3058) has been filed by Eastman Chemical Products, Inc., Kingsport, TN 37662, proposing that the food additive regulations (21 CFR Part 121) be amended to provide for safe use of poly(tetramethylene terephthalate) as articles or components of articles intended to contact food.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the Office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, during working hours, Monday through Friday.

Dated: April 18, 1975.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.75-11114 Filed 4-28-75;8:45 am]

[FAP 5H3035]

VESTAL LABORATORIES

Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 5H3035) has been filed by Vestal Laboratories, 4963 Manchester Ave., St. Louis, MO 63110 proposing that § 121.2547 *Sanitizing solutions* (21 CFR 121.2547) be amended to provide for the safe use of an aqueous solution containing *n*-alkyl (C_{12}-C_{18}) benzyl - dimethylammonium chloride, sodium metaborate, α-terpineol and α-[*p*-1,1,3,3-tetramethylbutyl)-phenyl]-*omega* - hydroxypoly(oxyethylene) produced with one mole of the phenol and 4-14 moles ethylene oxide as a sanitizing solution for food processing equipment and utensils.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, during hours, Monday through Friday.

Dated: April 18, 1975.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.75-11113 Filed 4-28-75;8:45 am]

Office of Education

RIGHT TO READ READING ACADEMY PROGRAM

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in the Cooperative Research Act, Pub. L. 83-531, as amended, 20 U.S.C. 331, applications are being accepted for new grants under the Right to Read Reading Academy Program. Applications must be received by the U.S. Office of Education Application Control Center on or before June 3, 1975.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue SW., Washington, D.C. 20202, Attention: 13.533. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The Application was sent by registered or certified mail not later than May 30, 1975, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The Application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.)

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. 20202. Hand delivered applications will be accepted daily between the hours of 8:30 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

C. *Authority.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Part 100a) and the General Regulations for Right to Read (45

CFR Part 151, Subpart A; published in the FEDERAL REGISTER on June 20, 1974 at 39 FR 22147). Regulations governing the Reading Academy Program are published in final form in this issue of the FEDERAL REGISTER (45 CFR 151, Subpart E), and will govern the operation of the program.

D. *Program information and forms.* Information and application forms may be obtained from the Right to Read Program, U.S. Office of Education, Room 2108, 400 Maryland Avenue, SW., Washington, D.C. 20202.

(Catalog of Federal Domestic Assistance Number 13.533, Right to Read Elimination of Illiteracy)

(20 U.S.C. 331a(a)(1))

Dated: April 16, 1975.

T. H. BELL,
U.S. Commissioner of Education.

[FR Doc.75-11143 Filed 4-28-75;8:45 am]

National Institutes of Health

NATIONAL COMMISSION ON ARTHRITIS AND RELATED MUSCULOSKELETAL DISEASES

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Commission on Arthritis and Related Musculoskeletal Diseases, National Institute of Arthritis, Metabolism, and Digestive Diseases, May 13-14, 1975, from 9 a.m. to 5 p.m., in Building 1, Wilson Hall, Bethesda, Maryland.

The entire meeting will be open to the public from 9 a.m. to 5 p.m. on May 13 and 14. The Commission will consider for their relevance to the fifteen items in section 3(g) of the Act the findings available, either from published reports or from expert testimony to be solicited by the Commission chairman.

Any member of the public wishing to secure a copy of the pertinent section of the Act should request it from Mr. Victor Wartofsky, address below.

Mr. Victor Wartofsky, Information Officer, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Maryland 20014, (301) 496-3583, will provide summaries of the meeting and rosters of the Commission members.

(Catalog of Federal Domestic Assistance Program No. 13.846 National Institutes of Health)

Dated: April 21, 1975.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.75-11240 Filed 4-28-75;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N-75-315]

BUENA VISTA ESTATES

Order of Suspension

In the matter of Buena Vista Estates, OILSR No. 0-2133-44-122, Land Sales Enforcement Division Docket No. Y-758.

Notice is hereby given that: On February 14, 1975, the Department of Housing and Urban Development, Office of Interstate Land Sales Registration, attempted to serve upon Amos Pemberton, President, Towngreen, Inc., an Order of Suspension by certified mail and service of process was not possible since the addressee could not be located. Accordingly, pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Order of Suspension is being issued as follows:

1. The Developer, having filed a Statement of Record for the above captioned subdivision pursuant to the provisions of the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701 et seq. and the rules and regulations lawfully promulgated thereto pursuant to 15 U.S.C. 1718, had its Statement of Record become effective pursuant to 24 CFR 1710.21 of the Interstate Land Sales Regulations. Said Statement is still in effect.

2. As authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been delegated to the Interstate Land Sales Administrator.

3. Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Interstate Land Sales Administrator may make an examination to determine whether a Suspension Order should be issued under 15 U.S.C. 1706(d), and if a developer or any agents thereof shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the Statement of Record.

4. Under the authority of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), a letter dated on or about November 15, 1974, was sent to the Developer, the body of said letter being in the form and substance of the form letter attached hereto and made part hereof as Exhibit A. The Developer has failed to comply with the request for the documents referred to in the third paragraph of said letter.

5. Therefore, pursuant to the provisions of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Statement of Record filed by the Developer covering its subdivision is hereby suspended, effective as of the date of the receipt of this Order of Suspension by the Said Developer. This Order of Suspension shall remain in full force and effect until the Developer has complied with the requirements of the order.

6. If the Developer desires a hearing in this matter, he shall file a request for hearing accompanied by an answer and three copies thereof within fifteen days after service of this order pursuant to 24 CFR 1720.145 and 24 CFR 1720.165. Any request for hearing, answer, motion, amendment to pleading, offer of settlement or correspondence during the pendency of this proceeding shall be filed with the General Counsel's Clerk for Administrative Proceedings, Room 10150, HUD Building, 451 Seventh Street, SW., Washington, D.C. 20410. All such papers shall clearly identify the subdivision, the type of matter and the docket number as set forth in this order.

Issued in Washington, D.C.

By the Secretary.

JOHN R. MCDOWELL,
Acting Interstate
Land Sales Administrator.

[FR Doc.75-11119 Filed 4-28-75;8:45 am]

[Docket No. N-75-316]

CLEARWATER FARMS

Order of Suspension

In the matter of Clearwater Farms, OILSR No. 0-2726-02-559, Land Sales Enforcement Division Docket No. Y-516.

Notice is hereby given that: On January 30, 1975, the Department of Housing and Urban Development, Office of Interstate Land Sales Registration, attempted to serve upon Roy L. Sikes, President, Sikes Development Company, an Order of Suspension by certified mail and service of process was not possible since the addressee could not be located. Accordingly, pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Order of Suspension is being issued as follows:

1. The Developer, having filed a Statement of Record for the above captioned subdivision pursuant to the provisions of the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701 et seq. and the rules and regulations lawfully promulgated thereto pursuant to 15 U.S.C. 1718, had its Statement of Record become effective pursuant to 24 CFR 1710.21 of the Interstate Land Sales Regulations. Said Statement is still in effect.

2. As authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been delegated to the Interstate Land Sales Administrator.

3. Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Interstate Land Sales Administrator may make an examination to determine whether a Suspension Order should be issued under 15 U.S.C. 1706(d), and if a developer or any agents thereof shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the Statement of Record.

4. Under the authority of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), a letter dated on or about November 15, 1974, was sent to the Developer, the body of said letter being in the form and substance of the form letter attached hereto and made part hereof as Exhibit A. The Developer has failed to comply with the request for the documents referred to in the third paragraph of said letter.

5. Therefore, pursuant to the provisions of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Statement of Record filed by the Developer covering its subdivision is hereby suspended, effective as of the date of the receipt of this Order of Suspension by the Said Developer. This Order of Suspension shall remain in full force and effect until the Developer has complied with the requirements of the order.

6. If the Developer desires a hearing in this matter, he shall file a request for hearing accompanied by an answer and three copies thereof within fifteen days after service of this order pursuant to 24 CFR 1720.145 and 24 CFR 1720.165. Any request for hearing, answer, motion, amendment to pleading, offer of settlement or correspondence during the pendency of this proceeding shall be filed with the General Counsel's Clerk for Administrative Proceedings, Room 10150, HUD Building, 451 Seventh Street, SW., Washington, D.C. 20410. All such papers shall clearly identify the subdivision, the type of matter and the docket number as set forth in this order.

Issued in Washington, D.C.

By the Secretary.

JOHN R. MCDOWELL,
Acting Interstate
Land Sales Administrator.

[FR Doc.75-11120 Filed 4-28-75;8:45 am]

[Docket No. N-75-322]

FOREST HILL ACRES

Order of Suspension

In the matter of Forest Hill Acres, OILSR No. 0-2022-09-610, Land Sales Enforcement Division Docket No. Y-626.

Notice is hereby given that: On February 5, 1975, the Department of Housing and Urban Development, Office of Interstate Land Sales Registration, attempted to serve upon Dr. Gaudencio E. Castro, President, Universal Properties, Inc., an Order of Suspension by certified mail and service of process was not possible since the addressee could not be located. Accordingly, pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Order of Suspension is being issued as follows:

1. The Developer, having filed a Statement of Record for the above captioned subdivision pursuant to the provisions of the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701 et seq. and the rules and regulations lawfully promulgated thereto pursuant to 15 U.S.C. 1718, had its Statement of Record become effective pursuant to 24 CFR 1710.21 of the Interstate Land Sales Regulations. Said Statement is still in effect.

2. As authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been delegated to the Interstate Land Sales Administrator.

3. Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Interstate Land Sales Administrator may make an examination to determine whether a Suspension Order should be issued under 15 U.S.C. 1706(d), and if a developer or any agents thereof shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the Statement of Record.

4. Under the authority of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), a letter dated on or about November 15, 1974, was sent to the Developer, the body of said letter being in the form and substance of the form letter attached hereto and made part hereof as Exhibit A. The Developer has failed to comply with the request for the documents referred to in the third paragraph of said letter.

5. Therefore, pursuant to the provisions of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Statement of Record filed by the Developer covering its subdivision is hereby suspended, effective as of the date of the receipt of this Order of Suspension by the Said Developer. This Order of Suspension shall remain in full force and effect until the Developer has complied with the requirements of the order.

6. If the Developer desires a hearing in this matter, he shall file a request for hearing accompanied by an answer and three copies thereof within fifteen days after service of this order pursuant to 24 CFR 1720.145 and 24 CFR 1720.165. Any request for hearing, answer, motion, amendment to pleading, offer of settlement or correspondence during the pendency of this proceeding shall be filed with the General Counsel's Clerk for Administrative Proceedings, Room 10150, HUD Building, 451 Seventh Street SW., Washington, D.C. 20410. All such papers shall clearly identify the subdivision, the type of matter and the docket number as set forth in this order.

Issued in Washington, D.C.

By the Secretary.

JOHN R. MCDOWELL,
Acting Interstate
Land Sales Administrator.

[FR Doc.75-11121 Filed 4-28-75;8:45 am]

[Docket No. N-75-318]

HICKORY HILLS

Order of Suspension

In the matter of Hickory Hills, OILSR No. 0-3162-15-32, Land Sales Enforcement Division Docket No. Y-656.

Notice is hereby given that: On February 7, 1975, the Department of Housing and Urban Development, Office of Interstate Land Sales Registration, attempted to serve upon William C. Weaver, President, Lan-Dev. Corporation, an Order of Suspension by certified mail and service of process was not possible since the addressee could not be located. Accordingly, pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Order of Suspension is being issued as follows:

1. The Developer, having filed a Statement of Record for the above captioned subdivision pursuant to the provisions of the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701 et seq. and the rules and regulations lawfully promulgated thereto pursuant to 15 U.S.C. 1718, had its Statement of Record become effective pursuant to 24 CFR 1710.-21 of the Interstate Land Sales Regulations. Said Statement is still in effect.

2. As authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been delegated to the Interstate Land Sales Administrator.

3. Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Interstate Land Sales Administrator may make an examination to determine whether a Suspension Order should be issued under 15 U.S.C. 1706(d), and if a developer or any agents thereof shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the Statement of Record.

4. Under the authority of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), a letter dated on or about November 15, 1974, was sent to the Developer, the body of said letter being in the form and substance of the form letter attached hereto and made part hereof as Exhibit A. The Developer has failed to comply with the request for the documents referred to in the third paragraph of said letter.

5. Therefore, pursuant to the provisions of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Statement of Record filed by the Developer covering its subdivision is hereby suspended, effective as of the date of the receipt of this Order of Suspension by the Said Developer. This Order of Suspension shall remain in full force and effect until the Developer has complied with the requirements of the order.

6. If the Developer desires a hearing in this matter, he shall file a request for hearing accompanied by an answer and three copies thereof within fifteen days after service of this order pursuant to 24 CFR 1720.145 and 24 CFR 1720.165. Any request for hearing, answer, motion, amendment to pleading, offer of settlement or correspondence during the pendency of this proceeding shall be filed with the General Counsel's Clerk for Administrative Proceedings, Room 10150, HUD Building, 451 Seventh Street, SW., Washington, D.C. 20410. All such papers shall clearly identify the subdivision, the type of matter and the docket number as set forth in this order.

Issued in Washington, D.C.

By the Secretary.

JOHN R. MCDOWELL,
Acting Interstate
Land Sales Administrator.

[FR Doc.75-11122 Filed 4-28-75;8:45 am]

[Docket No. N-75-314]

INDIAN LAKE ESTATES

Order of Suspension

In the matter of Indian Lake Estates, OILSR No. 0-2852-04-558, Land Sales Enforcement Division Docket No. Y-562.

Notice is hereby given that: On February 3, 1975, the Department of Housing and Urban Development, Office of Interstate Land Sales Registration, attempted to serve upon Jeff Dennis,

General Partner, Indian Lake Estates, an Order of Suspension by certified mail and service of process was not possible since the addressee could not be located. Accordingly, pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Order of Suspension is being issued as follows:

1. The Developer, having filed a Statement of Record for the above captioned subdivision pursuant to the provisions of the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701 et seq. and the rules and regulations lawfully promulgated thereto pursuant to 15 U.S.C. 1718, had its Statement of Record become effective pursuant to 24 CFR 1710.21 of the Interstate Land Sales Regulations. Said Statement is still in effect.

2. As authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been delegated to the Interstate Land Sales Administrator.

3. Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Interstate Land Sales Administrator may make an examination to determine whether a Suspension Order should be issued under 15 U.S.C. 1706(d), and if a developer or any agents thereof shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the Statement of Record.

4. Under the authority of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), a letter dated on or about November 15, 1974, was sent to the Developer, the body of said letter being in the form and substance of the form letter attached hereto and made part hereof as Exhibit A. The Developer has failed to comply with the request for the documents referred to in the third paragraph of said letter.

5. Therefore, pursuant to the provisions of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Statement of Record filed by the Developer covering its subdivision is hereby suspended, effective as of the date of the receipt of this Order of Suspension by the Said Developer. This Order of Suspension shall remain in full force and effect until the Developer has complied with the requirements of the order.

6. If the Developer desires a hearing in this matter, he shall file a request for hearing accompanied by an answer and three copies thereof within fifteen days after service of this order pursuant to 24 CFR 1720.145 and 24 CFR 1720.165. Any request for hearing, answer, motion, amendment to pleading, offer of settlement or correspondence during the pendency of this proceeding shall be filed with the General Counsel's Clerk for Administrative Proceedings, Room 10150, HUD Building, 451 Seventh Street, SW., Washington, D.C. 20410. All such papers shall clearly identify the subdivision, the type of matter and the docket number as set forth in this order.

Issued in Washington, D.C.

By the Secretary.

JOHN R. McDOWELL,
Acting Interstate
Land Sales Administrator.

[FR Doc.75-11123 Filed 4-28-75;8:45 am]

[Docket No. N-75-321]

KEYSTONE SHORES & ESTATES

Order of Suspension.

In the matter of Keystone Shores & Estates a/k/a Seabreeze, OILSR No. 0-2984-56-69, Land Sales Enforcement Division Docket No. Y-1017.

Notice is hereby given that: On February 18, 1975, the Department of Housing and Urban Development, Office of Interstate Land Sales Registration, attempted to serve upon A. P. Sereno, Vice President, Dillingham Development Company, an Order of Suspension by certified mail and service of process was not possible since the addressee could not be located. Accordingly, pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Order of Suspension is being issued as follows:

1. The Developer, having filed a Statement of Record for the above captioned subdivision pursuant to the provisions of the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701 et seq. and the rules and regulations lawfully promulgated thereto pursuant to 15 U.S.C. 1718, had its Statement of Record become effective pursuant to 24 CFR 1710.21 of the Interstate Land Sales Regulations. Said Statement is still in effect.

2. As authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been delegated to the Interstate Land Sales Administrator.

3. Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Interstate Land Sales Administrator may make an examination to determine whether a Suspension Order should be issued under 15 U.S.C. 1706(d), and if a developer or any agents thereof shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the Statement of Record.

4. Under the authority of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), a letter dated on or about November 15, 1974, was sent to the Developer, the body of said letter being in the form and substance of the form letter attached hereto and made part hereof as Exhibit A. The Developer has failed to comply with the request for the documents referred to in the third paragraph of said letter.

5. Therefore, pursuant to the provisions of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Statement of Record filed by the Developer covering its subdivision is hereby suspended, effective as of the date of the receipt of this Order of Suspension by the Said Developer. This Order of Suspension shall remain in full force and effect until the Developer has complied with the requirements of the order.

6. If the Developer desires a hearing in this matter, he shall file a request for hearing accompanied by an answer and three copies thereof within fifteen days after service of this order pursuant to 24 CFR 1720.145 and 24 CFR 1720.165. Any request for hearing, answer, motion, amendment to pleading, offer of settlement or correspondence during the pendency of this proceeding shall be filed with the General Counsel's Clerk for Administrative Proceedings, Room 10150, HUD Building, 451 Seventh Street SW., Washington, D.C. 20410. All such papers shall clearly identify the subdivision, the type of matter and the docket number as set forth in this order.

Issued in Washington, D.C.

By the Secretary.

JOHN R. McDOWELL,
Acting Interstate
Land Sales Administrator.

[FR Doc.75-11124 Filed 4-28-75;8:45 am]

[Docket No. N-75-317]

LA CONTENTA

Order of Suspension

In the matter of La Contenta, Unit I, Tract 210, OILSR No. 0-1293-04-237, Land Sales Enforcement Division Docket No. Y-546.

Notice is hereby given that: On January 30, 1975, the Department of Housing and Urban Development, Office of Interstate Land Sales Registration, attempted to serve upon John D. Cheistie, Secretary, La Contenta, an Order of Suspension by certified mail and service of process was not possible since the addressee could not be located. Accordingly, pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Order of Suspension is being issued as follows:

1. The Developer, having filed a Statement of Record for the above captioned subdivision pursuant to the provisions of the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701 et seq. and the rules and regulations lawfully promulgated thereto pursuant to 15 U.S.C. 1718, had its Statement of Record become effective pursuant to 24 CFR 1710.21 of the Interstate Land Sales Regulations. Said Statement is still in effect.

2. As authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been delegated to the Interstate Land Sales Administrator.

3. Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Interstate Land Sales Administrator may make an examination to determine whether a Suspension Order should be issued under 15 U.S.C. 1706(d), and if a developer or any agents thereof shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the Statement of Record.

4. Under the authority of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), a letter dated on or about November 15, 1974, was sent to the Developer, the body of said letter being in the form and substance of the form letter attached hereto and made part hereof as Exhibit A. The Developer has failed to comply with the request for the documents referred to in the third paragraph of said letter.

5. Therefore, pursuant to the provisions of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Statement of Record filed by the Developer covering its subdivision is hereby suspended, effective as of the date of the receipt of this Order of Suspension by the Said Developer. This Order of Suspension shall remain in full force and effect until the Developer has complied with the requirements of the order.

6. If the Developer desires a hearing in this matter, he shall file a request for hearing accompanied by an answer and three copies thereof within fifteen days after service of this order pursuant to 24 CFR 1720.145 and 24 CFR 1720.165. Any request for hearing, answer, motion, amendment to pleading, offer of settlement or correspondence during the pendency of this proceeding shall be filed with the General Counsel's Clerk for Administrative Proceedings, Room 10150, HUD Building, 451 Seventh Street, SW., Washington, D.C. 20410. All such papers shall clearly identify the subdivision, the type of matter and the docket number as set forth in this order.

Issued in Washington, D.C.

By the Secretary.

JOHN R. MCDOWELL,
Acting Interstate Land Sales Administrator.

[FR Doc.75-11125 Filed 4-28-75;8:45 am]

[Docket No. N-75-311]

LITTLE SIOUX VILLAGE

Order of Suspension

In the matter of Little Sioux Village, OILSR No. 0-3099-16-12, Land Sales Enforcement Division Docket No. Y-658.

Notice is hereby given that: On February 7, 1975, the Department of Housing and Urban Development, Office of Interstate Land Sales Registration, attempted to serve upon Richard G. Neuman, President, Little Sioux Village, Inc., an Order of Suspension by certified mail and service of process was not possible since the addressee could not be located. Accordingly, pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Order of Suspension is being issued as follows:

1. The Developer, having filed a Statement of Record for the above captioned subdivision pursuant to the provisions of the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701 et seq. and the rules and regulations lawfully promulgated thereto pursuant to 15 U.S.C. 1718, had its Statement of Record become effective pursuant to 24 CFR 1710.21 of the Interstate Land Sales Regulations. Said Statement is still in effect.

2. As authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been delegated to the Interstate Land Sales Administrator.

3. Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Interstate Land Sales Administrator may make an examination to determine whether a Suspension Order should be issued under 15 U.S.C. 1706(d), and if a developer or any agents thereof shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the Statement of Record.

4. Under the authority of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), a letter dated on or about November 15, 1974, was sent to the Developer, the body of said letter being in the form and substance of the form letter attached hereto and made part hereof as Exhibit A. The Developer has failed to comply with the request for the documents referred to in the third paragraph of said letter.

5. Therefore, pursuant to the provisions of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Statement of Record filed by the Developer covering its subdivision is hereby suspended, effective as of the date of the receipt of this Order of Suspension by the Said Developer. This Order of Suspension shall remain in full force and effect until the Developer has complied with the requirements of the order.

6. If the Developer desires a hearing in this matter, he shall file a request for hearing accompanied by an answer and three copies thereof within fifteen days after service of this order pursuant to 24 CFR 1720.145 and 24 CFR 1720.165. Any request for hearing, answer, motion, amendment to pleading, offer of settlement or correspondence during the pendency of this proceeding shall be filed with the General Counsel's Clerk for Administrative Proceedings, Room 10150, HUD Building, 451 Seventh Street SW., Washington, D.C. 20410. All such papers shall clearly identify the subdivision, the type of matter and the docket number as set forth in this order.

Issued in Washington, D.C.

By the Secretary.

JOHN R. MCDOWELL,
Acting Interstate Land Sales Administrator.

[FR Doc.75-11126 Filed 4-28-75;8:45 am]

[Docket No. N-303]

MORAINE CAMPLANDS RESORT SUBDIVISION

Hearing

In the matter of Moraine Camplands Resort Subdivision, OILSR No. 0-3461-44-253, Docket No. 75-10, Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d).

Notice is hereby given that: 1. Country Estates Realty Corporation, Frank R. Nickel, President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701 et seq.), received a notice of proceedings and opportunity for hearing issued February 27, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Moraine Camplands Resort Subdivision, located in Butler County, Pennsylvania, contain untrue statement of material fact or omit to state material facts required to be stated therein as necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received March 17, 1975, in response to the notice of proceedings and opportunity for hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the notice of proceedings and opportunity for hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *It is hereby ordered,* That a public hearing for the purpose of taking evidence on the questions set forth in the notice of proceedings and opportunity for hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street SW., Washington, D.C., on June 18, 1975, at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before June 11, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: April 18, 1975.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.75-11134 Filed 4-28-75;8:45 am]

[Docket No. N-75-324]

MT. SHASTA FOREST

Order of Suspension

In the matter of Mt. Shasta Forest, OILSR No. 0-0392-04-50, Land Sales Enforcement Division Docket No. Y-532.

Notice is hereby given that: On January 30, 1975, the Department of Housing and Urban Development, Office of Interstate Land Sales Registration, attempted to serve upon Albert Rosen, President, Technology Development, Inc., an Order of Suspension by certified mail and service of process was not possible since the addressee could not be located. Accordingly, pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45 (b) (2), the Order of Suspension is being issued as follows:

1. The Developer, having filed a Statement of Record for the above captioned subdivision pursuant to the provisions of the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701 et seq. and the rules and regulations lawfully promulgated thereto pursuant to 15 U.S.C. 1718, had its Statement of Record become effective pursuant to 24 CFR 1710.21 of the Interstate Land Sales Regulations. Said Statement is still in effect.

2. As authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been delegated to the Interstate Land Sales Administrator.

3. Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Interstate Land Sales Administrator may make an examination to determine whether a Suspension Order should be issued under 15 U.S.C. 1706(d), and if a developer or any agents thereof shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the Statement of Record.

4. Under the authority of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b) (2), a letter dated on or about November 15, 1974, was sent to the Developer, the body of said letter being in the form and substance of the form letter attached hereto and made part hereof as Exhibit A. The Developer has failed to comply with the request for the documents referred to in the third paragraph of said letter.

5. Therefore, pursuant to the provisions of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b) (2), the Statement of Record filed by the Developer covering its subdivision is hereby suspended, effective as of the date of the receipt of this Order of Suspension by the Said Developer. This Order of Suspension shall remain in full force and effect until the Developer has complied with the requirements of the order.

6. If the Developer desires a hearing in this matter, he shall file a request for hearing accompanied by an answer and three copies thereof within fifteen days after service of this order pursuant to 24 CFR 1720.145 and 24 CFR 1720.165. Any request for hearing, answer, motion, amendment to pleading, offer of settlement or correspondence during the pendency of this proceeding shall be filed with the General Counsel's Clerk for Administrative Proceedings, Room 10150, HUD Building, 451 Seventh Street SW., Washington, D.C. 20410. All such papers shall clearly identify the subdivision, the type of matter and the docket number as set forth in this order.

Issued in Washington, D.C.

By the Secretary.

JOHN R. MCDOWELL,
Acting Interstate Land Sales Administrator.

[FR Doc.75-11127 Filed 4-28-75;8:45 am]

[Docket No. N-75-313]

SERENE LAKE ESTATES

Order of Suspension

In the matter of Serene Lake Estates, Units 1 & 2, OILSR No. 0-3106-04-579, Land Sales Enforcement Division Docket No. Y-563.

Notice is hereby given that: On February 3, 1975, the Department of Housing and Urban Development, Office of Interstate Land Sales Registration, attempted to serve upon Joel H. Prescott, General Partner, Serene Lake Estates, an Order of Suspension by certified mail and service of process was not possible since the addressee could not be located. Accordingly, pursuant to 15 U.S.C. 1706 (e) and 24 CFR 1710.45(b) (2), the Order of Suspension is being issued as follows:

1. The Developer, having filed a Statement of Record for the above captioned subdivision pursuant to the provisions of the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701 et seq. and the rules and regulations lawfully promulgated thereto pursuant to 15 U.S.C. 1718, had its Statement of Record become effective pursuant to 24 CFR 1710.-21 of the Interstate Land Sales Regulations. Said Statement is still in effect.

2. As authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been delegated to the Interstate Land Sales Administrator.

3. Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b) (2), the Interstate Land Sales Administrator may make an examination to determine whether a Suspension Order should be issued under 15 U.S.C. 1706(d), and if a developer or any agents thereof shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the Statement of Record.

4. Under the authority of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b) (2), a letter dated on or about November 15, 1974, was sent to the Developer, the body of said letter being in the form and substance of the form letter attached hereto and made part hereof as Exhibit A. The Developer has failed to comply with the request for the documents referred to in the third paragraph of said letter.

5. Therefore, pursuant to the provisions of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b) (2), the Statement of Record filed by the Developer covering its subdivision is hereby suspended, effective as of the date of the receipt of this Order of Suspension by the Said Developer. This Order of Suspension shall remain in full force and effect until the Developer has complied with the requirements of the order.

6. If the Developer desires a hearing in this matter, he shall file a request for hearing accompanied by an answer and three copies thereof within fifteen days after service of this order pursuant to 24 CFR 1720.145 and 24 CFR 1720.165. Any request for hearing, answer, motion, amendment to pleading, offer of settlement or correspondence during the pendency of this proceeding shall be filed with the General Counsel's Clerk for Administrative Proceedings, Room 10150, HUD Building, 451 Seventh Street SW., Washington, D.C. 20410. All such papers shall clearly identify the subdivision, the type of matter and the docket number as set forth in this order.

Issued in Washington, D.C.

By the Secretary.

JOHN R. MCDOWELL,
Acting Interstate Land Sales Administrator.

[FR Doc.75-11128 Filed 4-28-75;8:45 am]

[Docket No. N-75-319]

SUNWARD HO RANCHES

Order of Suspension

In the matter of Sunward Ho Ranches, OILSR No. 0-1718-02-326, Land Sales Enforcement Division Docket No. Y511.

Notice is hereby given that: On January 30, 1975, the Department of Housing and Urban Development Office of Interstate Land Sales Registration, attempted to serve upon Jay L. Snook, President, Terra-Firm, Inc., an Order of Suspension by certified mail and service of process was not possible since the addressee could not be located. Accordingly, pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b) (2), the Order of Suspension is being issued as follows:

1. The Developer, having filed a Statement of Record for the above captioned subdivision pursuant to the provisions of the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701 et seq. and the rules and regulations lawfully promulgated thereto pursuant to 15 U.S.C. 1718, had its Statement of Record become effective pursuant to 24 CFR 1710.21 of the Interstate Land Sales Regulations. Said Statement is still in effect.

2. As authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been delegated to the Interstate Land Sales Administrator.

3. Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b) (2), the Interstate

Land Sales Administrator may make an examination to determine whether a Suspension Order should be issued under 15 U.S.C. 1706(d), and if a developer or any agents thereof shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the Statement of Record.

4. Under the authority of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), a letter dated on or about November 15, 1974, was sent to the Developer, the body of said letter being in the form and substance of the form letter attached hereto and made part hereof as Exhibit A. The Developer has failed to comply with the request for the documents referred to in the third paragraph of said letter.

5. Therefore, pursuant to the provisions of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Statement of Record filed by the Developer covering its subdivision is hereby suspended, effective as of the date of the receipt of this Order of Suspension by the Said Developer. This Order of Suspension shall remain in full force and effect until the Developer has complied with the requirements of the order.

6. If the Developer desires a hearing in this matter, he shall file a request for hearing accompanied by an answer and three copies thereof within fifteen days after service of this order pursuant to 24 CFR 1720.145 and 24 CFR 1720.165. Any request for hearing, answer, motion, amendment to pleading, offer of settlement or correspondence during the pendency of this proceeding shall be filed with the General Counsel's Clerk for Administrative Proceedings, Room 10150, HUD Building, 451 Seventh Street SW., Washington, D.C. 20410. All such papers shall clearly identify the subdivision, the type of matter and the docket number as set forth in this order.

Issued in Washington, D.C.

By the Secretary.

JOHN R. McDOWELL,
Acting Interstate Land Sales Administrator.

[FR Doc.75-11129 Filed 4-28-75;8:45 am]

[Docket No. N-75-310]

VILLAGE OF HONEY CREEK

Order of Suspension

In the matter of Village of Honey Creek, OILSR No. 0-1704-42-15, Land Sales Enforcement Division Docket No. Y-739.

Notice is hereby given that: On February 14, 1975, the Department of Housing and Urban Development, Office of Interstate Land Sales Registration, attempted to serve upon M. Vernon Deise, President, RLM Corporation, an Order of Suspension by certified mail and service of process was not possible since the addressee could not be located. Accordingly, pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Order of Suspension is being issued as follows:

1. The Developer, having filed a Statement of Record for the above captioned subdivision pursuant to the provisions of the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701 et seq. and the rules and regulations lawfully promulgated thereto pursuant to 15 U.S.C. 1718, had its Statement of Record become effective pursuant to 24 CFR 1710.21 of the Interstate Land Sales Regulations. Said Statement is still in effect.

2. As authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been delegated to the Interstate Land Sales Administrator.

3. Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Interstate Land Sales Administrator may make an examination to determine whether a Suspension Order should be issued under 15 U.S.C. 1706(d), and if a developer or any agents thereof shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the Statement of Record.

4. Under the authority of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), a letter dated on or about November 15, 1974, was sent to the Developer, the body of said letter being in the form and substance of the form letter attached hereto and made part hereof as Exhibit A. The Developer has failed to comply with the request for the documents referred to in the third paragraph of said letter.

5. Therefore, pursuant to the provisions of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Statement of Record filed by the Developer covering its subdivision is hereby suspended, effective as of the date of the receipt of this Order of Suspension by the Said Developer. This Order of Suspension shall remain in full force and effect until the Developer has complied with the requirements of the order.

6. If the Developer desires a hearing in this matter, he shall file a request for hearing accompanied by an answer and three copies thereof within fifteen days after service of this order pursuant to 24 CFR 1720.145 and 24 CFR 1720.165. Any request for hearing, answer, motion, amendment to pleading, offer of settlement or correspondence during the pendency of this proceeding shall be filed with the General Counsel's Clerk for Administrative Proceedings, Room 10150, HUD Building, 451 Seventh Street, SW., Washington, D.C. 20410. All such papers shall clearly identify the subdivision, the type of matter and the docket number as set forth in this order.

Issued in Washington, D.C.

By the Secretary.

JOHN R. McDOWELL,
Acting Interstate Land Sales Administrator.

[FR Doc.75-11130 Filed 4-28-75;8:45 am]

[Docket No. N-75-312]

WALNUT MOUNTAIN

Order of Suspension

In the matter of Walnut Mountain, OILSR No. 0-3161-10-61, Land Sales Enforcement Division Docket No. Y-643.

Notice is hereby given that: On February 7, 1975, the Department of Housing and Urban Development, Office of Interstate Land Sales Registration, attempted to serve upon William A. Fulton, President, William Fulton Company, Inc., an Order of Suspension by certified mail and service of process was not possible since the addressee could not be located. Accordingly, pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Order of Suspension is being issued as follows:

1. The Developer, having filed a Statement of Record for the above captioned subdivision pursuant to the provisions of the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701 et seq. and the rules and regulations lawfully promulgated thereto pursuant to 15 U.S.C. 1718, had its Statement of Record become effective pursuant to 24 CFR 1710.21 of the Interstate Land Sales Regulations. Said Statement is still in effect.

2. As authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been delegated to the Interstate Land Sales Administrator.

3. Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Interstate Land Sales Administrator may make an examination to determine whether a Suspension Order should be issued under 15 U.S.C. 1706(d), and if a developer or any agents thereof shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the Statement of Record.

4. Under the authority of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), a letter dated on or about November 15, 1974, was sent to the Developer, the body of said letter being in the form and substance of the form letter attached hereto and made part hereof as Exhibit A. The Developer has failed to comply with the request for the documents referred to in the third paragraph of said letter.

5. Therefore, pursuant to the provisions of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Statement of Record filed by the Developer covering its subdivision is hereby suspended, effective as of the date of the receipt of this Order of Suspension by the Said Developer. This Order of Suspension shall remain in full force and effect until the Developer has complied with the requirements of the order.

6. If the Developer desires a hearing in this matter, he shall file a request for hearing accompanied by an answer and three copies thereof within fifteen day after service of this order pursuant to 24 CFR 1720.145 and 24 CFR 1720.165.

Any request for hearing, answer, motion, amendment to pleading, offer of settlement or correspondence during the pendency of this proceeding shall be filed with the General Counsel's Clerk for Administrative Proceedings, Room 10150, HUD Building, 451 Seventh Street SW., Washington, D.C. 20410. All such papers shall clearly identify the subdivision, the type of matter and the docket number as set forth in this order.

Issued in Washington, D.C.

By the Secretary.

JOHN R. MCDOWELL,
Acting Interstate Land Sales Administrator.

[FR Doc.75-11131 Filed 4-28-75;8:45 am]

[Docket No. N-75-320]

WINONA FOREST

Order of Suspension

In the matter of Winona Forest, OILSR No. 0-0862-34-10, Land Sales Enforcement Division Docket No. Y-711.

Notice is hereby given that: On February 12, 1975, the Department of Housing and Urban Development, Office of Interstate Land Sales Registration, attempted to serve upon Philip W. Emery, President, Winona Forest Corporation, an Order of Suspension by certified mail and service of process was not possible since the addressee could not be located. Accordingly, pursuant to 15 U.S.C. 1706 (e) and 24 CFR 1710.45(b) (2), the Order of Suspension is being issued as follows:

1. The Developer, having filed a Statement of Record for the above captioned subdivision pursuant to the provisions of the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701 et seq. and the rules and regulations lawfully promulgated thereto pursuant to 15 U.S.C. 1718, had its Statement of Record become effective pursuant to 24 CFR 1710.21 of the Interstate Land Sales Regulations. Said Statement is still in effect.

2. As authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been delegated to the Interstate Land Sales Administrator.

3. Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b) (2), the Interstate Land Sales Administrator may make an examination to determine whether a Suspension Order should be issued under 15 U.S.C. 1706(d), and if a developer or any agents thereof shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the Statement of Record.

4. Under the authority of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b) (2), a letter dated on or about November 15, 1974, was sent to the Developer, the body of said letter being in the form and substance of the form letter attached hereto and made part hereof as Exhibit A. The Developer has failed to comply with the request for the documents referred to in the third paragraph of said letter.

5. Therefore, pursuant to the provisions of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b) (2), the Statement of Record filed by the Developer covering its subdivision is hereby suspended, effective as of the date of the receipt of this Order of Suspension by the Said Developer. This Order of Suspension shall remain in full force and effect until the Developer has complied with the requirements of the order.

6. If the Developer desires a hearing in this matter, he shall file a request for hearing accompanied by an answer and three copies thereof within fifteen days after service of this order pursuant to 24 CFR 1720.145 and 24 CFR 1720.165. Any request for hearing, answer, motion, amendment to pleading, offer of settlement or correspondence during the pendency of this proceeding shall be filed with the General Counsel's Clerk for Administrative Proceedings, Room 10150, HUD Building, 451 Seventh Street SW., Washington, D.C. 20410. All such papers shall clearly identify the subdivision, the type of matter and the docket number as set forth in this order.

Issued in Washington, D.C.

By the Secretary.

JOHN R. MCDOWELL,
Acting Interstate Land Sales Administrator.

[FR Doc.75-11132 Filed 4-28-75;8:45 am]

[Docket No. N-75-323]

WINTER PARK VILLAGE

Order of Suspension

In the matter of Winter Park Village, OILSR No. 0-1287-05-83, Land Sales Enforcement Division Docket No. Y-576.

Notice is hereby given that: On February 3, 1975, the Department of Housing and Urban Development, Office of Interstate Land Sales Registration, attempted to serve upon Peter R. Rathvon, President, Winter Park Village, Inc., an Order of Suspension by certified mail and service of process was not possible since the addressee could not be located. Accordingly, pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b) (2), the Order of Suspension is being issued as follows:

1. The Developer, having filed a Statement of Record for the above captioned subdivision pursuant to the provisions of the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701 et seq. and the rules and regulations lawfully promulgated thereto pursuant to 15 U.S.C. 1718, had its Statement of Record become effective pursuant to 24 CFR 1710.21 of the Interstate Land Sales Regulations. Said Statement is still in effect.

2. As authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been delegated to the Interstate Land Sales Administrator.

3. Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b) (2), the Interstate Land Sales Administrator may make an examination to determine whether a Suspension Order should be issued under 15 U.S.C. 1706(d), and if a developer or any agents thereof shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the Statement of Record.

4. Under the authority of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b) (2), a letter dated on or about November 15, 1974, was sent to the Developer, the body of said letter being in the form and substance of the form letter attached hereto and made part hereof as Exhibit A. The Developer has failed to comply with the request for the documents referred to in the third paragraph of said letter.

5. Therefore, pursuant to the provisions of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b) (2), the Statement of Record filed by the Developer covering its subdivision is hereby suspended, effective as of the date of the receipt of this Order of Suspension by the Said Developer. This Order of Suspension shall remain in full force and effect until the Developer has complied with the requirements of the order.

6. If the Developer desires a hearing in this matter, he shall file a request for hearing accompanied by an answer and three copies thereof within fifteen days after service of this order pursuant to 24 CFR 1720.145 and 24 CFR 1720.165. Any request for hearing, answer, motion, amendment to pleading, offer of settlement or correspondence during the pendency of this proceeding shall be filed with the General Counsel's Clerk for Administrative Proceedings, Room 10150, HUD Building, 451 Seventh Street SW., Washington, D.C. 20410. All such papers shall clearly identify the subdivision, the type of matter and the docket number as set forth in this order.

Issued in Washington, D.C.

By the Secretary.

JOHN R. MCDOWELL,
Acting Interstate Land Sales Administrator.

[FR Doc.75-11133 Filed 4-28-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. EX 75-17; Notice 1]

GILLIG BROS.

Petition for Temporary Exemption From Federal Motor Vehicle Safety Standard

Gillig Bros of Hayward, California, has applied for a temporary exemption from Motor Vehicle Safety Standard No. 121, *Air Brake Systems*, on the basis that compliance would cause it substantial economic hardship.

Petitioner manufactured 235 buses in the 12-month period from April 1, 1974 through March 31, 1975. The company wishes to complete 42 school buses whose chassis were manufactured before March 1, 1975 with nonconforming axle systems. Gillig had been under the impression that since the chassis were

manufactured before the effective date of the standard vehicles completed after March 1, 1975 did not have to comply with Standard No. 121. Efforts and plans to conform were based upon this mistaken assumption and, although it has begun to receive complying parts, denial of permission to complete the 42 buses would allegedly create hardship. The cost to modify 40 two-axle buses is estimated at $5,110 for each vehicle. Modification costs for the two three-axle buses would be $6,845 each, with total conformance costs of $216,090 for all vehicles. The retail price of each vehicle would rise by the amount of the per vehicle modification cost. If the petition is denied, the company anticipates a net loss before taxes of $150,000 occasioned by retrofit costs and loss of sales. The company had a net income of $476,961 in fiscal 1974. Denial would also allegedly result in a layoff of 100 to 150 persons in the interim while conforming chassis were produced for its body line. The company believes that an exemption would not compromise safety since it already provides "superior" braking performance: "All other school bus manufacturers in the U.S.A. with capacity similar to Gillig's offer 650 to 700 sq. in. of braking surface compared to Gillig's 960 sq. in. of braking surface. Only one other school bus manufacturer provides an equal braking surface and none provide a larger braking surface." Gillig seeks an exemption until July 1, 1975.

This notice of receipt of a petition for a temporary exemption is published in accordance with the NHTSA regulations on this subject (49 CFR 555.7), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Interested persons are invited to submit comments on the petition of Gillig Bros described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received, are available for examination in the docket both before and after the closing date. Comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below:

Comment closing date. May 9, 1975.

Proposed effective date. Date of issuance of exemption.

(Sec. 3 Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); delegations of authority at 49 CFR 1.51 and 49 CFR 501.8)

Issued on April 25, 1975.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.75-11358 Filed 4-28-75;8:45 am]

ACTION

NATIONAL VOLUNTARY SERVICE ADVISORY COUNCIL

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Council meeting:

Name: National Voluntary Service Advisory Council.
Date: May 22, 1975.
Place: ACTION, 806 Connecticut Avenue, NW., Washington, D.C., Room 522.
Time: 1:30 pm.

Purpose of the meeting: To discuss the work of each of the Council's committees and to continue preparations for the Annual Report of the Advisory Council.

Meeting of the Advisory Council is open to the public. Public attendance depending on available space, may be limited to those persons who have notified the Advisory Council Executive Officer in writing at least five days prior to the meeting, of their intention to attend the meeting.

Any member of the public may file a written statement with the Council before, during, or after the meeting. To the extent that time permits, the Council Executive Officer may allow public presentation of oral statements at the meeting.

All communications regarding this Advisory Council should be addressed to Ms. Elizabeth Allemang, Advisory Council Executive Officer, 806 Connecticut Avenue, NW., Washington, D.C. 20525.

ELIZABETH ALLEMANG,
Staff Assistant,
Office of the Director,

[FR Doc.75-11097 Filed 4-28-75;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 26654; Order 75-4-116]

REEVE ALEUTIAN AIRWAYS, INC.

Final Service Mail Rates

Issued under delegated authority, April 24, 1975.

By Order 75-4-34, April 8, 1975, all interested persons, and particularly Reeve Aleutian Airways, Inc., and the Postmaster General, were directed to show cause why the Board should not amend Order 71-7-111, July 20, 1971, so as to provide for surcharges to cover the increased costs for fuel, subject to the terms and conditions as set forth in Order 71-7-111.

The time designated for filing notice of objection has elapsed and no notice of objection or answer to the order has been filed by any person. All persons have therefore waived the right to a hearing and all other procedural steps short of a final rate.

Upon consideration of the record, the findings and conclusions set forth in said order are hereby reaffirmed and adopted.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, the Board's procedural regulations, 14 CFR Part 302, and the authority duly delegated by the Board in its Organizational regulations, 14 CFR 385.16(g):

It is ordered, That:

1. The fair and reasonable final rates of compensation to be paid to Reeve Aleutian Airways, Inc., by the Postmaster General, pursuant to the provisions of section 406 of the Federal Aviation Act of 1958, for the transportation of mail by aircraft over its intra-Alaska routes, the facilities used and useful therefor, and the services connected therewith, per great-circle mail ton-mile are: (a) $0.7036 effective from May 1 through June 30, 1974; (b) $0.7203 effective from July 1 through September 30, 1974; and (c) $0.7303 effective on and after October 1, 1974;

2. The final service mail rates here fixed and determined are to be paid in their entirety by the Postmaster General; and

3. This order shall be served upon Reeve Aleutian Airways, Inc., and the Postmaster General.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review is filed, or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75-11187 Filed 4-28-75;8:45 am]

[Docket No. 27772; Order 75-4-114]

TRANS WORLD AIRLINES, INC.

Order of Investigation and Suspension Regarding Youth, Senior Citizen and Family Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 23rd day of April 1975.

By tariff revisions[1] marked to become effective April 24, 1975, Trans World Airlines, Inc. (TWA) proposes to establish reduced fares for youths, senior citizens, and families which would be available in all of its markets within the 48 contiguous states for approximately nine months. The youth and senior citizen fares would be offered on a one-way standby basis, while the family fares would apply only on a round-trip basis and with provision for reservations. All three fares afford a one-third discount from the regular coach fare, with the discount for families applying to the spouse or children 2-21 years of age accompanying the full-fare paying head of the family. A more detailed description of the proposed fares together with TWA's discussion of each is set forth in Appendix A.[2]

In support of its proposal, TWA alleges that the present decline in air travel

[1] Revisions to Airline Tariff Publishers Company, Inc., Agent, Tariff C.A.B. Nos. 142 and 202.

[2] Filed as part of the original document.

combined with escalating costs make it essential that air carriers use every possible method of increasing revenues. It contends that in the present economic environment a limited offering of youth, senior citizen, and family fares will provide significant revenue increases, create consumer savings, and reduce the level of further fare level increases.

TWA acknowledges that fares of the type it now proposes were found unjustly discriminatory in Phase 5 (Discount Fares) of the "Domestic Passenger-Fare Investigation (DPFI)", but contends that that finding was based on an economic environment entirely different from that now facing the industry, and was bottomed on the premise that the fares ultimately burdened normal-fare passengers. The carrier alleges that the fares it proposes will not burden any passenger, will benefit present and newly generated passengers, and will harm no one.

The carrier alleges that whenever short-term promotional fares meet the profit-impact test as its proposed fares do, such fares will reduce the cost that would otherwise have to be covered by regular passengers; and that the long-run considerations which prompted the Board to disapprove the fares under review in Phase 5 are not appropriate here because the fares it proposes are limited to a 9½-month period thereby mooting any possibility of carriers adding capacity to accommodate passengers traveling at the fares proposed. Finally, TWA contends that the Board found that, when a fare serves a significant economic purpose, it need not be found unjustly discriminatory, and that the fares it proposes do serve an important and pressing economic purpose. TWA estimates that the proposed fares will improve its 1975 revenues, net of increased cost, by about $8,000,000.

Complaint against TWA's proposal have been filed by the National Association of Motor Bus Owners (NAMBO), the American Society of Travel Agents (ASTA), Eastern Air Lines, Inc. (Eastern), United Air Lines, Inc. (United), and the Department of Transportation (DOT).[3] In addition, the Council on Wage and Price Stability (Council) has filed an answer in support of the complaints.[4]

All complainants assert that the discount fares proposed by TWA are *prima facie* discriminatory, and that no legally cognizable justification has been presented to rebut this presumption. DOT states that the carrier has failed to supply any substantial "overriding considerations" which the Board in its Phase 5 decision held were indispensable to overcome a *prima facie* case of fare discrimination while the Council on Wage and Price Stability contends that the facts presented by TWA justify price reductions, but do not justify price discriminations. NAMBO asserts that the Board and the courts could not be more explicit in condemning *ad hominem* discount fares, and that the determination of which groups of persons should receive preferential fares was made by the Congress and it remains in the hands of Congress whether or not TWA may wish it so.

ASTA asserts that it is opposed to the granting of discounts on the basis of discriminatory personal characteristics of the potential passenger, but should the Board decide to reverse itself on the matter of special discounts available to youths or senior citizens, it requests that the Board not permit the fares on a standby basis. It contends that prior experience has demonstrated that the standby feature created tremendous problems for other travelers and for airline and airport personnel, as well as travel agents.

United alleges that the large group of discount fares which recently became effective will provide the stimulus and vehicle to place the industry back on a sound developmental-fare basis. It contends that further reductions in fares will not help but rather will hinder, and thus, even under the exception to *prima facie* discrimination, the TWA fares remain unjustly discriminatory. United further alleges that the proposed fares will expose United and the rest of the industry to considerable revenue dilution, which for itself alone would amount to $22,000,000 during the duration of the fares. The carrier asserts that TWA's incremental costing approach is inappropriate because it estimates adding almost a half million passengers to its system in 9½ months on top of that from a plethora of discount fares already approved, and that at some point the layering of one promotional fare upon another prevents the carriers from handling each new increment of generated passengers on an incremental cost basis.

In answer to the complaints, TWA alleges, *inter alia*, that the Board recognized in Phase 5 that during periods of excessive capacity, discount fares can play a role in helping fill empty seats until fleet size and schedules come into balance with traffic demands. With respect to the alleged understatement of costs, TWA essentially argues that present staffing and procedures are adequate to handle the additional traffic to be carried under the proposal and that costs claimed by the complainants simply will not be incurred. TWA asserts that United has failed to put forth any probative evidence to suggest the proposition that the Bicentennial excursion fares will attract significant numbers of youth, senior citizen and family traffic, traffic that has been lost to the industry and will continue to be lost despite the simultaneous availability of other excursion-type fares.[5]

Upon consideration of the tariff proposal, the complaints and answer thereto, and all other relevant matters, the Board finds that the proposed fares may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board has also concluded to suspend the proposal pending investigation.

Central to the Board's Phase 5 decision on whether the age and status discrimination inherent in youth and family fares was justified was the finding of the Court of Appeals that "the rule of equality is the very core and essence of the fare structure in the transportation industry, and it should not be rendered a meaningless phrase by the use of spurious justifications for unjustly discriminatory rates."[6] The Court went on to say that equality of treatment is paramount, and factors alleged to justify departure from the rule of equality are to be weighed in light of that pervasive requirement. (emphasis added). The Court also held that justification which the Board could consider is limited to those factors which Congress has by statute deemed material, and those factors which regulatory practice in the transportation industry has, through experience, found relevant. Factors related to the status of the traffic and unrelated to transportation may not be considered, nor can the Board take into consideration matters involving broad social policies, such as special treatment for any particular age group, or encouragement of families as a favored social grouping.

In its Phase 5 decision, the Board made a careful evaluation of the developmental considerations which the court has held can justify a discrimination if found to be of substantial importance to the system as a whole. On the basis of very comprehensive evidence, the Board concluded that developmental benefits which could be ascribed to youth and family fares were simply not adequate.

The Board specifically found in Phase 5 that the traffic development which could reasonably be attributed to the youth and family fares was too insubstantial to warrant their inherent discrimination. The record there indicated that while youth and family fares accounted for 6.3 and 11.5 percent, respectively, of total coach traffic, generated traffic represented only 3.27 and 2.63 percent. The foregoing statistics were based on the Board's findings that youth fares were 54.6 percent generative, and that

[3] DOT's complaint was late filed and was accompanied by a motion to accept an otherwise unauthorized document. We will grant the motion.

[4] We would remind the Council and all other parties that the time for filing complaints against a proposal is on the complaint date. Departure fom this procedural regulation is both unfair to the proposing carrier, particularly since there is no provision in the Board's rules of practice for an answer to an answer, and hinders the orderly dispatch of the matter under consideration by the Board within the tight schedule mandated by the statutory provision for filing tariffs.

[5] TWA argues that because the Bicentennial fares are limited to markets over 750 miles; contain minimum- and maximum-stay requirements; and are priced 12.5 to 20 percent higher than TWA's senior citizen standby fares the Bicentennial excursion fares are not a substitute for senior citizen fares as claimed.

[6] Transcontinental Bus System, Inc. vs. C.A.B., 383 F. 2d 466 (C.A.B. 5, 1967).

family fares were 21.1 percent generative. In the instant case, TWA assumes the same 54.6 percent generation factor for youth fares, and 30 and 50 percent generation factors, respectively, for family fares and senior citizens. Using TWA's estimate of generated traffic, we calculate that generated youth, senior citizen, and family fare traffic will represent 2.92, 1.67 and 1.71 percent, respectively, of TWA's total coach traffic for 1975. This accepts the traffic generation estimated by TWA (annualized since the fares are effective for 9½ months), and no growth in total coach traffic over 1974. Accordingly, it would appear that the "developmental" benefits which could be expected from the proposed fares are no better and are, in fact, less than those which the Board found in Phase 5 to be "too insubstantial" to warrant the discrimination.

Moreover, we note that the discount-fare environment during the time youth and family fares were studied was substantially different from that existing today. Today there are many more discount fares than there were in earlier years which provide substantially more attractive dollar savings. Consequently, we would expect that the generative effect of youth, senior citizen, and family fares in today's discount-fare environment to be significantly less than it was in earlier years, and what generation there would be could well be at the expense of existing discount fares with the result that their profitability would be placed in jeopardy with no net benefit from the special TWA fares. In any event, we are not persuaded that the short-term traffic stimulus needed by the industry cannot be achieved through the use of discount fares which are available to all members of the general public.

What remains, then, is the argument that the proposed fares will promote traffic and thereby increase TWA's profits during a time of economic recession. However, the courts and the Board have consistently held that promotional considerations alone can not sustain the legality of otherwise unjustly discriminatory fares. Since the proposal fails on this issue we do not find it necessary to deal with TWA's estimate of the economic results of the fares. In summary, favoritism in travel for youths (and by implication senior citizens) and families has been found illegal after extensive consideration by the Board and the courts and nothing presented by TWA in the instant case persuades us otherwise.[7]

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, and 1002 thereof,

It is ordered, That:

1. An investigation be instituted to determine whether the fares and provisions described in Appendix B attached hereto,[8] and rules, regulations, and practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fares and provisions, and rules, regulations, or practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in Appendix B hereto are suspended and their use deferred to and including July 22, 1975, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order of special permission of the Board;

3. The motion by the United States Department of Transportation for leave to file a late document is hereby granted;

4. Except to the extent granted herein, the complaints in Dockets 27643, 27657, 27658, and 27661 are hereby dismissed;

5. The proceeding ordered herein be assigned for hearing before an Administrative Law Judge of the Board at a time and place hereafter to be designated; and

6. Copies of this order will be filed in the aforesaid tariffs and served upon Allegheny Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., Frontier Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., the American Society of Travel Agents, the National Association of Motor Bus Owners, the United States Department of Transportation, and the Council on Wage and Price Stability, which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,[9]
Secretary.

[FR Doc. 75-11191 Filed 4-28-75;8:45 am]

[7] We distinguish the circumstances here from those that prompted the Board to approve IATA transatlantic youth fares. There the Board concluded that the Canadian residency requirement most likely could not or would not be enforced; that the U.S. carriers stood to lose substantial revenue ($19.4 million) through diversion of U.S. youth traffic to adjacent Canadian gateways; and that in these circumstances they should be permitted to compete for that traffic on an equal footing.

[8] Filed as part of the original document.

[9] Concurring statement of Minetti and West, Members, filed as part of the original document.

CIVIL SERVICE COMMISSION

DEPARTMENT OF COMMERCE

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Deputy Director, Bureau of East-West Trade, Office of the Director.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-11082 Filed 4-28-75;8:45 am]

DEPARTMENT OF THE TREASURY

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Treasury to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Enforcement, Office of the Assistant Secretary (Enforcement, Operations, and Tariff Affairs), Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-11083 Filed 4-28-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Agriculture to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Secretary for Real Property, Immediate Office, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-11076 Filed 4-28-75;8:45 am]

DEPARTMENT OF COMMERCE

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Commerce to fill by noncareer executive assignment in the expected service the position of Solicitor, Patent Office.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-11077 Filed 4-28-75;8:45 am]

DEPARTMENT OF DEFENSE

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Defense to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Principal Deputy Assistant Secretary, Office of the Principal Deputy, OASD (International Security Affairs), Office of the Secretary of Defense.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-11078 Filed 4-28-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Environmental Protection Agency to fill by noncareer executive assignment in the excepted service the position of Deputy General Counsel, Office of General Counsel, Office (for Standards and Enforcement) and General Counsel, Office of the Administrator.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-11079 Filed 4-28-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Federal Communications Commission to fill by noncareer executive assignment in the excepted service the position of Executive Director, Office of Executive Director.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-11080 Filed 4-28-75;8:45 am]

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the National Commission on Libraries and Information Science to fill by noncareer executive assignment in the excepted service the position of Executive Director.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-11081 Filed 4-28-75;8:45 am]

SMALL BUSINESS ADMINISTRATION

Title Change in Noncareer Executive Assignment

By notice of September 19, 1973, FR Doc. 73-19949 the Civil Service Commission authorized the Small Business Administration to fill by noncareer executive assignment the position of Assistant Administrator for Planning, Research and Analysis. This is notice that the title of this position is now being changed to Assistant Administrator for Advocacy, Planning, and Research.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-11084 Filed 4-28-75;8:45 am]

FIRE PROTECTION AND PREVENTION SERIES, CLEAR AIR FORCE STATION, ALASKA

Establishment of Minimum Rates and Rate Ranges

Under authority of 5 U.S.C. 5303 and Executive Order 11721, the Civil Service Commission has established special minimum salary rates and rate changes as follows:

[Table No. 011]

Occupational coverage: GS-081-4/7, Fire Protection and Prevention Series.

Geographic coverage: Clear Air Force Station, Alaska.

Effective date: First day of the first pay period beginning on or after April 27, 1975.

PER ANNUM RATES

Grade	1	2	3	4	5	6	7	8	9	10
GS-4	$9,367	$9,620	$9,873	$10,126	$10,379	$10,632	$10,885	$11,133	$11,391	$11,644
GS-5	10,198	10,481	10,764	11,047	11,330	11,613	11,896	12,179	12,462	12,745
GS-6	10,737	11,053	11,369	11,685	12,001	12,317	12,633	12,949	13,265	13,581
GS-7	11,222	11,573	11,924	12,275	12,626	12,977	13,328	13,679	14,030	14,381

Under provisions of section 3-26, Chapter 571, FPM, agencies may pay the travel and transportation expenses to first post of duty, under 5 U.S.C. 5723, of new appointees to positions cited.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-11086 Filed 4-28-75;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN MAN-MADE FIBER TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN HAITI

Establishment of Restraint Levels

APRIL 24, 1975.

On February 27, 1975, the United States Government requested the Government of Haiti to enter into consultations under Articles 3 and 6 of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, concerning exports to the United States of man-made fiber textile products in Categories 214, 219, 228 and 229, produced or manufactured in Haiti. Public notice of this request was published in the FEDERAL REGISTER on March 3, 1975 (40 FR 8850). Market disruption information relating to each of the aforementioned categories was published in the FEDERAL REGISTER on March 14, 1975 (40 FR 11933), and public comment and/or submission of additional information was invited by April 14, 1975.

Since no solution has been mutually agreed upon, the United States Government, in furtherance of the objectives of, and under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, including Articles 3 and 6, is establishing restraints at the following levels for the period beginning on February 27, 1975 and extending through February 26, 1976:

Category:	*12-month level of restraint*
214	294,432 dozen pairs.
219	239,420 dozen.
223	139,532 dozen.
229	86,937 dozen.

These restraints do not apply to man-made fiber textile products in Categories 214, 219, 228 or 229, produced or manufactured in Haiti and exported to the United States prior to February 27, 1975.

There is published below a letter of April 24, 1975, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that, effective on April 29, 1975, the amounts of man-made fiber textile products in Categories 214, 219, 228 and 229, produced or manufactured in Haiti, which may be entered or withdrawn from warehouse for consumption in the United States for the twelve-month period beginning on February 27, 1975, be limited to the designated levels.

ALAN POLANSKY,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury
Washington, D.C. 20229

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on April 29, 1975, and for the twelve-month period beginning on February 27, 1975 and extending through February 26, 1976, entry into the United States for consumption and withdrawal from warehouse for consumption, of man-made fiber textile products in Categories 214, 219, 228 and 229, produced or manufactured in Haiti, in excess of the following levels of restraint:

Category:	*12-month level of restraint* [1]
214	294,432 dozen pairs.
219	239,420 dozen.
228	139,532 dozen.
229	86,937 dozen.

[1] The levels of restraint have not been adjusted to reflect any entries made on or after February 27, 1975.

Entries of man-made fiber textile products in Categories 214, 219, 228 and 229, produced or manufactured in Haiti and which have been exported to the United States from Haiti prior to February 27, 1975, shall not be subject to this directive.

Man-made fiber textile products in Categories 214, 219, 228 and 229 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of these categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on February 3, 1975 (40 FR 5010).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Haiti and with respect to imports of man-made fiber textile products from Haiti have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ALAN POLANSKY,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

[FR Doc.75-11106 Filed 4-28-75;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

HIGH ENERGY PHYSICS ADVISORY PANEL

Meeting

On May 16-17, 1975, there will be a meeting of the High Energy Physics Advisory Panel at the Stanford Linear Accelerator Center in the Orange Room of the Central Laboratory. Below is that portion of the agenda for this meeting which will be open to the public. Practical considerations may require changes in the agenda or schedule.

FRIDAY, MAY 16, 1975

9:15 a.m.—Presentation of Proposed New Facilities.

9:15 a.m.—Positron-Electron Tandem Ring Accelerator at Deutsches Elektronen-Synchrotron. Electrons and Positrons in Collisions Project at Rutherford High Energy Laboratory.

9:30 a.m.—Intersecting Storage Accelerator at Brookhaven National Laboratory.

10:30 a.m.—Positron Electron Project at Stanford Linear Accelerator Center.

2 p.m.—Electron-Positron Colliding Beam Facility at Cornell Electron Synchrotron.

3:30 p.m.—Energy Doubler/Saver Project at Fermi National Accelerator Laboratory.

5 p.m.—Protons on Protons and Electrons Project and the High Energy Fixed Target at Fermi National Accelerator Laboratory.

SATURDAY, MAY 17, 1975

9 a.m.—Report of the Subpanel on Research and Program Balance.

9:15 a.m.—Report on Russian High Energy Physics Program.

9:45 a.m.—Report on New Orleans Seminar and Planning for U.S. Participation in the Very Big Accelerator Study Group.

In addition to the above items, the Panel plans to hold two (2) executive sessions. The first is scheduled on Friday morning prior to the beginning of the open session, the second will begin at 10:30 a.m. on Saturday and continue throughout the end of the meeting.

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463 that these executive sessions will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written would fall within exemption (5) of 5 U.S.C. 552(b). It is essential to close these portions of the meeting to protect the free interchange of internal views and to avoid undue interference with Agency or Committee operation.

The Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in agenda items scheduled above, the following requirements shall apply:

(a) Persons wishing to submit written statements on those agenda items may do so by mailing 25 copies thereof, postmarked, if possible, no later than May 2, 1975, to the Executive Secretary, High Energy Physics Advisory Panel, Dr. Robert M. Woods, Jr., Division of Physical Research, U.S. Energy Research and Development Administration, Washington, D.C. 20545. Minutes of the meeting will be kept open for 30 days for receipt of written statements for the record.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement, and shall set forth reasons justifying the need for such oral statements and their usefulness to the Panel. To the extent that the time available for the meeting permits, the Panel will receive oral statements during a period of not more than 30 minutes at an appropriate time, chosen by the Chairman.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Panel, who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call to the office of the Executive Secretary of the Panel. His telephone number is Area Code 301-973-3624.

(e) Questions at the meeting may be asked only by members of the Advisory Panel.

(f) Seating for the public will be made available on a first-come, first-served basis.

(g) Copies of minutes of public sessions will be made available for copying, following their acceptance by the Panel at its next meeting, in accordance with the Federal Advisory Committee Act, at the U.S. Energy Research and Development Administration's Public Document Room, 1717 H Street, NW., Washington, D.C., upon payment of all charges required by law.

R. G. ROMATOWSKI,
Advisory Committee Management Officer.

[FR Doc.75-11093 Filed 4-28-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 365-8; OPP-32000/237 & 238]

RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of Section 3(c) (1) (D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street, SW., Washington, D.C. 20460.

On or before June 30, 1975, any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c) (1) (D) for such use of his data, and (d) wishes to preserve his

right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street, SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day period has expired. If no claims are received within the 60 day period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alternative available under the Act. No claims will be accepted for possible EPA adjudication which are received after June 30, 1975.

Dated: April 22, 1975.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

APPLICATIONS RECEIVED (OPP-32000/237)

EPA File Symbol 150-UL. Anderson Chem. Co., PO Box 1041, Litchfield MN 55355. AN-SAN-SOFT. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 3.3%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 3.3%; Isopropyl Alcohol 1.5%; Ethyl Alcohol 1.25%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 150-UT. Anderson Chem. Co. COUNT-MINUS V. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5.0%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5.0%; Phosphoric Acid 30.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 150-UA. Anderson Chem. Co. STAPH MINUS H. Active Ingredients: N-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chloride 2.25%; N-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 1317-IA. An-Fo Mfg. Co., 3129 Elmwood Ave., Oakland CA 94601. DAIRY-DU CHLORINE SANITIZER-BLEACH CLEANER-DEODORIZER. Active Ingredients: Sodium Hypochlorite 8.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM34.

EPA File Symbol 960-ENU. Balcom Chem., Inc., PO Box 667, Greeley CO 80631. CLEAN CROP CHLORATE-3 HARVEST AID. Active Ingredients: Sodium Chlorate 28%. Method of Support: Application proceeds under 2 (c) of interim policy. PM25.

EPA File Symbol 14929-R. Ball Chem. Co., 10815 Briggs Rd., Cleveland OH 44111. BALL-CO 700-R RESIDUAL INSECTICIDE. Active Ingredients: O,O-Diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 0.500%; Pyrethrins 0.052%; Piperonyl Butoxide, Technical (Equivalent to 0.209% of (butyl-carbityl) (6-propylpiperonyl) ether and 0.052% of related compounds) 0.261%; Petroleum Distillate 8.608%. Method of Support: Application proceeds under 2(c) of interim policy. PM15.

EPA File Symbol 35910-R. Samuel Birnbaum, 3601 Carmel Ave., Irvine CA 92664. COMPLETE RAT-MOUSE KILLER. Active Ingredients: 2-Pivalyl-1,3-Indandione 0.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM11.

EPA File Symbol 6926-T. Carl Pool Lab., Inc., PO Drawer 249, Elmendorf TX 78112. CARL POOL GARDEN WORM SPRAY DIPEL. Active Ingredients: Bacillus thuringiensis, Berliner, 4,320 I.U.'s per mg. At least 6.75 billion viable spores per gram 0.86%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 4313-LI. Carroll Co., 2900 W. Kingsley Rd., Garland TX 75041. THRIFTY LEMON DISINFECTANT. Active Ingredients: Alkyl (C14 50%, C12 40%, C16 10%) dimethyl benzyl ammonium chloride 4.0%; Isopropanol 4.0%; Ethanol 1.0%; Essential oils 0.2%. Method of Support: Application proceeds under 2(c) of interim policy. PM31.

EPA File Symbol 419-RIU. Cenol Co., Div. of Burgess Vibrocrafters, Inc., PO Box 177, Libertyville IL 60048. CENOL ROACH & HOUSEHOLD INSECT SPRAY. Active Ingredients: Pyrethrins 0.05%; Piperonyl Butoxide, Technical (Equivalent to 0.208% (Butylcarbityl) (6-propylpiperonyl) Ether and 0.052% related compounds) 0.26%; 0,0-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 0.50%; Petroleum Distillates 99.12%. Method of Support: Application proceeds under 2(c) of interim policy. PM15.

EPA Reg. No. 239-2186. Chevron Chem. Co., 940 Hensley St., Ortho Div., Richmond CA 94804. ORTHO PARAQUAT CL. Active Ingredients: Paraquat dichloride (1,1'-dimethyl-4,4'-bipyridinium dichloride) 29.1%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Additional use. PM25.

EPA File Symbol 34282-A. Dickler Chem. Labs, Inc., 4201 Torresdale Ave., Philadelphia PA 19124. RINSE DISINFECTANT-SANITIZER DEODORIZER. Active Ingredients: Alkyl (C14 50%, C12 40%, C16 10%) Dimethyl Benzyl Ammonium Chloride 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 8789-A. Dixie Chem. Co., PO Box 5188, Jacksonville FL 32207. KONTROL-A-BUG ROACH & ANT SPRAY. Active Ingredients: Pyrethrins 0.052%; Piperonyl Butoxide, Technical (Equivalent to 0.208% (butylcarbityl) (6-propylpiperonyl) ether and to 0.052% related compounds) 0.260%; Chlorpyrifos [0,0-diethyl 0-(3,5,6-trichloro-2-pyridyl) phosphorothioate] 0.500%; Petroleum Distillate 98.736%. Method of Support: Application proceeds under 2(c) of interim policy. PM12.

EPA File Symbol 11694-AO. Dymon, Inc., 3401 Kansas Ave., Kansas City KS 66106. INSTANT MILDEW REMOVER. Active Ingredients: Calcium Hypochlorite 4.8%. Method of Support: Application proceeds under 2(c) of interim policy. PM34.

EPA File Symbol 11694-UO. Dymon, Inc., 3401 Kansas Ave., Kansas City KS 66106. BROMENOL 4 GRANULAR VEGETATION BRUSH AND WEED KILLER. Active Ingredients: Bromacil (5-Bromo-3-sec-butyl-6-methyluracil) 4.00%. Method of Support: Application proceeds under 2(c) of interim policy. PM24.

EPA File Symbol 36394-R. Dytex Chem. Co., Inc., 1280 High St., Central Falls RI 02863. DYCLORINE FOR SWIMMING POOL CHLORINATION. Active Ingredients: Sodium Hypochlorite 10.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM34.

EPA File Symbol 20276-R. Engineered Chem. of FL, 9713 Palm River Rd., E. Tampa FL 33610. CIGOMINT DISINFECTANT. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 4.00%; Isopropanol 4.00%; Methyl salicylate 1.00%. Method of Support: Application proceeds under 2(c) of interim policy. PM31.

EPA File Symbol 9687-RN. Engineering Co., Oda Chem., Chagrin Falls, OH 44022. N-MIL-SAN. Active Ingredients: Dideoyl dimethyl ammonium chloride 50%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA Reg. No. 635-268. E-Z-Flo Chem. Co., Div. Kirsto Co., PO Box 808, Lansing MI 48903. E-Z-FLO ROTENONE 1 D. Active Ingredients: Rotenone 1.0%; Other Cube Resins 2.0%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Added uses. PM17.

EPA File Symbol 279-GNNA. FMC Corp., Agricultural Chem. Div., 100 Niagara St., Middleport NY 14105. PYRENONE DIAZINON STABLE EMULSION INSECTICIDE. Active Ingredients: O,O-Diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 0.500%; Pyrethrins 0.053%; Piperonyl Butoxide, Technical (Equivalent to 0.208% (butylcarbityl) (6-propylpiperonyl) ether and 0.052% related compounds) 0.260%; Petroleum Distillate 0.208%. Method of Support: Application proceeds under 2(c) of interim policy. PM15.

EPA File Symbol 34774-E. Hertz Pools, 7200 N. Western Ave., Oklahoma City OK 73116. ALGI-RID. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 8780-UL. High Point Mills, Inc., 1225 Lehigh Station Rd., Henrietta NY 14467. TURF LINE ARTHRO-BAN TRIPLE ACTION 3 FORMULA CONTAINS BENEFIN. Active Ingredients: Chlorpyrifos, O,O-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate 0.70%; Benefin, N-butyl - N-ethyl-a,a,a-trifluoro-2,6-dinitro-p-toluidine 0.53%. Method of Support: Application proceeds under 2(c) of interim policy. PM25.

EPA File Symbol 1021-RGLT. McLaughlin Gormely King Co., 8810 10th Ave. N., Minneapolis MN 55427. ESBIOL INTERMEDIATE 2010. Active Ingredients: d-trans-chrysanthemum monocarboxylic acid ester of d - 2-allyl-4-hydroxy-3-methyl-2-cyclopenten-1-one 7.74%; Other isomers 0.60%; Piperonyl butoxide, technical (Equivalent to 16.00% (butylcarbityl) (6-propylpiperonyl) ether and 4.00% related compounds) 20.00%; N-octyl bicycloheptene dicarboximide 13.34%; Petroleum distillate 5.05%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 36724-R. Machemco, 60 Kathryn Dr., Marietta GA 30060. POOLSIDE 2001. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5.0%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5.0%. Method of Support: Application proceeds under 2(b) of interim policy, PM31.

EPA File Symbol 35912-R. S. H. Mack and Co., Inc., PO Box 844, 1667 E. Dearborn St., Aurora IL 60507. MAXCIDE 700. Active Ingredients: Poly[oxyethylene(dimethyliminio)ethylene (dimethyliminio)ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 34967-E. Matcote Co., Inc., PO Box 10762, Houston TX 77018. "MATCOTE ANTI-FOUL 5-947". Active Ingredients: Tri-n-butyltin Fluoride 12.32%; Bix(Tri-n-butyltin) oxide 2.79%. Method of Support: Application proceeds under 2(c) of interim policy. PM24.

EPA File Symbol 7161-L. National Solvent Corp., 955 W. Smith Rd., Medina OH 44256. NASCO WATER REPELLENT & PENTA WOOD PRESERVATIVE. Active Ingredients: Pentachlorophenol 4.47%; Other chlorophenols and Related Compounds 0.52%; Mineral Spirits 84.55%. Method of Support: Application proceeds under 2(c) of interim policy. PM24.

EPA File Symbol 11465-G. Bowco, Inc., Rt. 13, Box 741, San Antonio TX 78218. BOWCHEM BRUSH CONTROL MIXTURE T. Active Ingredients: Butoxy Propyl ester of 2,4,5-trichlorophenoxyacetic acid 68.29%. Method of Support: Application proceeds under 2(c) of interim policy. PM23.

EPA File Symbol 8848-EO. Safeguard Chem. Corp., 789 E. 144 St., Bronx NY 10454. BLACK JACK PROFESSIONAL STRENGTH FLYING INSECT KILLER. Active Ingredients: Pyrethrins 0.50%; Piperonyl Butoxide, technical (Equivalent to 0.80% (butylcarbityl) (6-propylpiperonyl) ether and 0.20% other related compounds) 1.00%; N-octyl bicycloheptene dicarboximide 1.00%; Petroleum Distillate 7.50%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 2724-EAO. Thuron Indus., 12200 Denton Dr., Dallas TX 75234. STARBAR F-140. Active Ingredients: Dichlorvos (2,2-dichlorovinyl dimethyl phosphate) 17.5%. Method of Support: Application proceeds under 2(c) of interim policy. Submitted March 12. PM15.

EPA File Symbol 2724-EAO. Thuron Indus., 12200 Denton Dr., Dallas TX 75234. STARBAR F-140. Active Ingredients: Dichlorvos (2,2-dichlorovinyl dimethyl phosphate) 17.5%. Method of Support: Application proceeds under 2(a) of interim policy. Submitted March 25. PM15.

EPA File Symbol 7182-U. 3M Co., 3M Center, Bldg. 230-3, St. Paul MN 55101. 3M BRAND DISINFECTING AND STERILIZING SOLUTION. Active Ingredients: Glutaraldehyde 2%. Method of Support: Application proceeds under 2(a) of interim policy. PM33.

EPA File Symbol 1386-LOR. Universal Cooperatives, Inc., PO Box 836, Alliance OH 44601. UNICO MILL & FOOD PLANT SPRAY. Active Ingredients: Pyrethrins 0.20%; Piperonyl Butoxide, Technical (Equivalent to 0.8% of (butylcarbityl) (6-propylpiperonyl) ether and 0.2% of related compounds) 1.00%; Petroleum Distillate 98.80%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 15265-A. Wausau Chem. Corp., PO Box 953, 2001 N. River Dr., Wausau WI 54401. ALGICIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Change in method of support from 2(b) to 2(c). PM24.

EPA File Symbol 35500-R. Western Stockmen's Supply, PO Box 1027, Nampa ID 83651. STAY STRONG FX GRUB & FLY CONTROL SALT. Active Ingredients: Ronnel [0,0-dimethyl 0-(2,4,5-trichlorophenyl) phosphorothioate] 6.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM15.

APPLICATIONS RECEIVED (OPP-32000/238)

EPA Reg. No. 960-179. Balcom Chemicals, Inc., PO Box 667, Greeley CO 80631. BALCOM TOXAPHENE 6 E.C. Active Ingredients: Toxaphene (Technical Chlorinated Camphene containing 67-69% Chlorine) 60%; Xylene 35%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Additional uses, PM 12.

EPA File Symbol 10037-R. Chemco Products Co., Inc., 2626 E. Wisconsin Ave., Appleton WI 54911. CHEMCO 333. Active Ingredients, n-Alkyl (C14, C12, C16) dimethyl benzyl ammonium chlorides 10%. Method of Support: Application proceeds under 2(c) of interim policy. PM31.

EPA File Symbol 1021-RGLN. McLaughlin Gormley King Co., 8810 Tenth Ave. N, Minneapolis MN 55427. ESBIOL INTERMEDIATE 2017. Active Ingredients: d-trans-chrysanthemum monocarboxylic acid ester of d-2- allyl-4-hydroxy-3-methyl-2-cyclopenten-1-one 6.15%; Other isomers 0.48%; Piperonyl butoxide, technical (Equivalent to 14.78% (butylcarbityl) (6-propylpiperonyl) ether and 3.6% related compounds) 18.47%; N-octyl bicloheptene dicarboximide 18.47%; Petroleum distillate 25.42%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 527-OG. Midland Laboratories Inc., 210-220 Jones St., Dubuque IA 52001. ML SANIDET SANITIZER. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 6020-RT. MOM Chemical Co., Inc., 7775 NW. 66th St., Miami FL 33166. WHISP SUPER DISINFECTANT-DEODORIZER-MILDEWCIDE. Active Ingredients: Alkyl (C14 90%, C12 5%, C16 5%) dimethyl dichlorobenzyl ammonium chlorides 2.50%; Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammounium chloride 1.25%; Alkyl (C14 90%, C12 5%, C16 5%) dimethyl ethyl ammounium bromide 1.25%; Sodium carbonate 1.00%; Ethylenediaminetetraacetic acid, tetrasodium salt 0.38%; Essential oils 0.50%. Method of Support: Application proceeds under 2(c) of interim policy. PM31.

EPA File Symbol 9591-EL. Nationwide Products, Inc., PO Box 3027, Hamilton OH 45013. NATIONWIDE EXTERMINATING "FOGGER". Active Ingredients: Pyrethrins 0.40%; O-Isopropoxyphenyl methylcarbamate 1.00%; Related Compounds 0.03%; Piperonyl Butoxide Technical (Equivalent to 3.20% of (Butylcarbityl) (6-Propylpiperonyl) Ether and 0.80% related compounds) 4.00%; 2,2-Dichlorovinyl Dimethyl Phosphate 0.47%; Petroleum Distillates 9.036%. Method of Support: Application proceeds under 2(c) of interim policy. PM 12.

EPA File Symbol 36404-E. Nissho-Iwai American Corp., 624 S. Grand Ave., Los Angeles CA 90017. STAR-CHLON. Active Ingredients: Calcium Hypochlorite 70%. Method of Support: Application proceeds under 2(c) of interim policy. PM24.

EPA File Symbol 5131-L. Parkhurst Farm & Garden Supply, 301 N. White Horse Pike, Hammonton NJ 08037. PARKHURST'S SEVIN 5 DUST. Active Ingredients: Carbaryl (1-naphthyl methylcarbamate) 5%. Method of Support: Application proceeds under 2(c) of interim policy. PM12.

EPA File Symbol 36307-R. Research Laboratories, 207 Lodi St., Hackensack NJ 07602. MESS-GO. Active Ingredients: Para diisobuty phenoxy ethoxy ethyl dimethyl benzyl ammonium chloride monohydrate 0.25%. Method of Support: Application proceeds under 2(c) of interim policy. PM31.

EPA Reg. No. 359-177. Rhodia Inc., Agricultural Div., 23 Belmont Dr., Somerset NJ 08873. RHODIA 2,4-D LOW VOLATILE ESTER 4L Active Ingredients: Isooctyl ester of 2,4-dichlorophenoxyacetic acid 70.1%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Added use. PM23.

EPA Reg. No. 400-89. Uniroyal Chemical, Div. of Uniroyal, Inc., Amity Rd., Bethany CT 06525. OMITE-6E AGRICULTURAL MITICIDE. Active Ingredients: Propargite 2-(p-tert-butylphenoxy) cyclohexyl 2-propynyl sulfite 68.1%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Added use. PM13.

[FR Doc.75-10398 Filed 4-28-75;8:45 am]

FEDERAL COUNCIL FOR SCIENCE AND TECHNOLOGY

AD HOC INTERAGENCY COORDINATING COMMITTEE FOR ASTRONOMY

Open Workshop

The Ad Hoc Interagency Coordinating Committee on Astronomy (ICCA) will hold a workshop on Tuesday, May 27, 1975 for the presentation of views on a report on Solar Astronomy being prepared by a Task Force of ICCA.

The ICCA was established by the Federal Council for Science and Technology on November 7, 1974 to provide improved coordination of ground-based and space-based astronomy programs of the Federal Government agencies. Membership of ICCA consists of Federal agencies with astronomy programs, and agencies with programs which impact upon the astronomy programs of others.

Copies of the draft report on Solar Astronomy will be available after May 12, and may be requested from:

Ms. Swart
Code 630 Goddard Space Flight Center
Greenbelt, Maryland 20771
Telephone 301-982-4701 (or 4702)

Interested scientists are invited to the workshop, and the general public is invited on a space-available basis. Scientists desiring to present views should notify:

Ms. Janis Cleveland
National Science Foundation
Astronomy Section
1800 G Street NW.
Washington, D.C. 20550
Telephone 202-632-4183

It will aid in the scheduling of the presentations if the notification includes

an indication as to which sections of the report are to be addressed. Comments must be relevant to the Task Force's report. Participation may be limited by the time available at the discretion of the chairman of the workshop. Representative scientists may be designated if desired to present their colleagues' as well as their own views. Written comments will be received by mail up to the date of the workshop; comments on the oral presentations may be submitted by the public in writing on the next day to Ms. Cleveland (address above).

The workshop will be held:

Tuesday, May 27, 1975
9 a.m., Room 543
National Science Foundation
1800 G Street NW.
Washington, D.C. 20550

It will adjourn at the conclusion of the oral presentations, but in any event not later than 4 p.m. that day. This workshop is not a meeting within the provisions of the Federal Advisory Committee Act.

Dated: April 23, 1975.

ROBERT FLEISCHER,
Executive Secretary for Ad Hoc Interagency Coordinating Committee for Astronomy.

[FR Doc.75-11110 Filed 4-28-75;8:45 am]

FEDERAL MARITIME COMMISSION

CONFERENCES IN TRADES TO, FROM AND BETWEEN UNITED STATES ATLANTIC AND GULF PORTS AND PORTS IN CENTRAL AND SOUTH AMERICA AND CARIBBEAN

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Juan, Puerto Rico, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 9, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreements filed by:

Wade S. Hooker, Jr., Esquire
Casey, Lane & Mittendorf
26 Broadway
New York, New York 10004

Agreements to modify the respective organic agreements of the following six members of the Associated Latin American Freight Conferences have been assigned the agreement numbers shown:

Atlantic & Gulf/West Coast of South America Conference	2744-37
East Coast Colombia Conference	7590-23
United States Atlantic & Gulf-Venezuela and Netherlands Antilles Conference	6190-30
United States Atlantic & Gulf-Venezuela and Netherlands Antilles Conference—Oil Companies Contract Agreement (Proprietary Cargo)	6870-18
West Coast South America Northbound Conference	7890-12
Leeward & Windward Islands & Guianas Conference	7540-26

These agreements (1) amend the intermodal provisions of the conferences to allow any member line, subject to certain limitations and notice requirements, to establish intermodal through rates and services and (2) provide for indefinite approval of the intermodal provisions.

By order of the Federal Maritime Commission.

Dated April 24, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-11188 Filed 2-28-75;8:45 am]

PORT OF REDWOOD CITY AND LEVIN METALS CORP.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before May 19, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

F. J. Di Pietro, Port Manager
Port of Redwood City
775 Harbor Boulevard
Redwood City, California 94063

Agreement No. T-3081 between the Port of Redwood City (Port) and Levin Metals Corporation (Levin) provides for the ten-year lease (with a ten-year renewal option) to Levin of land consisting of approximately 14 acres as well as the preferential nonexclusive right to use Wharf No. 3 of the Port. The premises will be used by Levin for operation of a scrap metal processing, shredding, handling, loading and shipping facility, and other purposes incidental thereto. As compensation, Port will receive a basic rental payment plus all terminal tariff charges. The agreement entitles Levin to reductions in the tariff charges, provided that the combined payments of rental and tariff assessments paid by Levin during any 12-month period exceed a certain dollar amount, as further specified in the agreement.

By order of the Federal Maritime Commission.

Dated: April 24, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-11190 Filed 4-28-75;8:45 am]

[Docket No. 73-22 (Sub. No. 1)]

MATSON NAVIGATION CO.

General Rate Increase in the Hawaiian Trade; Investigation

Effective April 25, 1975, Matson Navigation Company (Matson) proposes to increase rates in its Pacific Coast/Hawaii Trade by an average of some 5 percent. In addition, the carrier proposes to meld into its rate structure the 9.3 percent fuel surcharge which is currently in effect. These increases are accomplished by first melding the 9.3 percent fuel surcharge into the existing rates and then applying either a 3 percent or an 8 percent increase, the latter depending upon whether the currently effective rate (including fuel surcharge) produces $900 gross revenue per container. Rates generating less than $900 will be increased by 8 percent while those items generating $900 or more will be increased 3 percent. In some instances, increases which would have otherwise been at the 8 percent level will be held to 3 percent due, according to Matson, to the effective rates having been recently increased (e.g., household goods, automobiles and paper products). Matson alleges that this methodology was used in an attempt to narrow the dollar

gap between higher and lower rated commodities which has been widening in recent years because of general rate increases.

Exceptions to the general increase are found in the rates on eastbound bulk sugar and molasses which move under Matson's Tariffs FMC–F Nos. 138 and 151.

Pursuant to amendment 1 to General Order 11 (46 CFR 512.3(d)) Matson filed financial and operating data in connection with its general increase which generally support Matson's alleged need for additional revenues.

Protests to the increase were filed by the Motor Vehicle Manufacturers Association, the Hawaiian Container Corporation, Cal-Wood Door, Hawaiian Flour Mills, Inc., Hunt-Wesson Foods and the Industrial Traffic Association of Hawaii. These protests allege generally that the subject increase is unreasonable and will be detrimental to the shipping public; that the incorporation of the fuel surcharge will eliminate the possibility that rates will be reduced if fuel prices decrease; that the two-tier increase will result in discrimination against lower rated commodities; that Matson does not need all of the revenue that will be generated by its subject tariff actions; and that the increase is discriminatory to the westbound shipper in that no increase has been applied to eastbound sugar and molasses.

Matson filed a reply to the protests disputing most of the allegations set forth therein and pointing out that its data show that Matson will achieve a rate of return of 8.63% on rate base in the Hawaiian Trade in the twelve months after the increase becomes effective.

In 1973, Matson filed a general increase in rates which is currently the subject of Docket No. 73–22—Matson Navigation Co.,—Proposed Changes in Rates Between U.S. Pacific Coast and Hawaii. On April 18, 1975, the Commission granted a motion by Matson to modify the order instituting proceeding so as to exclude from its scope the rate increase scheduled to become effective on April 25, 1975.

Matson is a wholly-owned subsidiary of Alexander and Baldwin Inc. (A&B). As shown by A&B's annual report to the Securities and Exchange Commission (Form 10–K) for the calendar year 1974, A&B (through a division known as Hawaiian Commercial and Sugar Company) and another wholly-owned subsidiary, McBryde Sugar Company, Ltd. produced about 23 percent of Hawaii's 1974 raw sugar crop. Matson carries bulk sugar from the Hawaiian Islands to Crockett, California for California and Hawaiian Sugar Company (C&H), a sugar refining and marketing cooperative corporation of which A&B owns about 22 percent. C&H is the only shipper and consignee of bulk sugar in Matson's service and appears to be the only shipper of bulk molasses. In view of these intercorporate relationships, the failure of Matson to propose increases in its sugar and molasses rates at a time when it is alleging the need for greater revenues gives rise to questions of preference to cargo in which Matson and its parent have a financial interest.

Upon consideration of all of the above, the Commission is of the opinion that the subject general rate increase and the specific failure to increase rates on eastbound sugar and molasses should be made the subject of a public investigation and hearing to determine whether such proposed actions are unjust, unreasonable or otherwise unlawful under the Shipping Act, 1916 and/or the Intercoastal Shipping Act, 1933, and, good cause appearing,

Therefore, it is ordered, That pursuant to the authority of sections 18(a) and 22 of the Shipping Act, 1916, as amended, and section 4 of the Intercoastal Shipping Act, 1933, as amended, an investigation is hereby ordered into the lawfulness of the tariff matter listed in Appendix A hereto[1] for the purpose of making such findings and orders as the facts and circumstances warrant. In the event that the tariff matter hereby placed under investigation is further changed, amended, or reissued, such changes are hereby ordered to be made a part of this investigation;

It is further ordered, That pursuant to section 16 First of the Shipping Act, 1916, a determination shall be made as to whether the general increase coupled with Matson's failure to increase rates on bulk sugar and molasses will result in any undue or unreasonable preference or advantage to any particular person, locality or description of traffic in any respect whatsoever, or will subject any particular person, locality or description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever;

It is further ordered, That pursuant to section 16 First of the Shipping Act, 1916, a determination shall be made as to whether, by applying an 8 percent increase to lower rated commodities and a 3 percent increase to higher rated commodities, Matson is proposing to subject lower rated commodities to any undue or unreasonable prejudice or disadvantage;

It is further order, That all of the material which is now or which becomes part of the record in Docket No. 73–22—Matson Navigation Co.,—Proposed Changes in Rates Between U.S. Pacific Coast and Hawaii, shall be available for use by any party to this proceeding in the same manner and for the same purposes as if it were introduced into the record herein. All references to Exhibits or Transcript pages from that proceeding shall be prefixed by the caption "73–22";

It is further ordered, That as part of this investigation, a determination be made whether, under the facts developed herein, the carriage of bulk sugar and molasses by Matson should be considered common carriage, and whether the revenues and expenses associated therewith should be treated as part of Matson's Pacific Coast/Hawaii Trade for ratemaking purposes;

It is further ordered, That Matson Navigation Company be named as respondent in this proceeding and that the Motor Vehicle Manufacturer's Association of the United States, Hawaiian Container Corporation, Cal-Wood Door, Hawaiian Flour Mills, Inc., Hunt-Wesson Foods and the Industrial Traffic Association of Hawaii be named as complainants;

It is further ordered, That this proceeding be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined by the Presiding Administrative Law Judge, but in any event, the hearing shall commence not later than October 21, 1975,

It is further ordered, That (1) a copy of this order be forthwith served upon the respondent and complainants herein and upon the Commission's Bureau of Hearing Counsel, and published in the FEDERAL REGISTER, and (2) the respondent, complainants and Hearing Counsel be duly served with notice of time and place of hearing.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) having an interest in this proceeding and desiring to intervene herein should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with rule 5(1) of the Commission's rules of practice and procedure (46 CFR 502.72) with a copy to all parties to the proceeding.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[FR Doc.75–11189 Filed 4–28–75;8:45 am]

[1] Filed as part of the original document.

FEDERAL POWER COMMISSION

[Docket No. E–8524]

BLACKSTONE VALLEY ELECTRIC CO.

Filing of Supplemental Agreements

APRIL 22, 1975.

Take notice that on April 16, 1975, Blackstone Valley Electric Company (BVE) tendered for filing certain supplemental agreements to the agreements relating to the sharing of certain transmission facilities filed in the captioned docket. BVE states that the supplemental agreements are in compliance with the Commission's order herein issued March 17, 1975, and that they are of the same form as the agreements submitted with the Settlement Agreement except that certain minor changes have been made to reflect the sale of one transmission line by Narragansett Electric Company to BVE.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C.

20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 7, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11147 Filed 4-28-75;8:45 am]

[Docket No. E-9255]

CLEVELAND ELECTRIC ILLUMINATING CO.

Order Denying Rehearing

APRIL 22, 1975.

On January 31, 1975, Cleveland Electric Illuminating Company (CEI) tendered for filing a proposed revision to its existing rate schedule revising the rates and charges [1] to the City of Cleveland, Ohio (City), for CEI's 11 kV "load transfer service" to City's Municipal Electric Light Plant (MELP) for the period March 3, 1975 through the date the 138 kV interconnection between the two parties is scheduled to be operational. The proposed changes according to CEI would increase revenues from jurisdictional sales and service by $303,752 for the month of March, 1975.

CEI stated that the proposed increase is justified because the 15.2 mills/kWh rate prescribed by the Federal Power Commission in Opinion No. 644 and accompanying order issued January 11, 1973 in Docket Nos. E-7631, et al. "for Load Transfer Service is in fact less than half of CEI's clearly demonstrable incremental or out of pocket, costs associated with supplying the service." CEI claims that this is due primarily because of increased fuel costs subsequent to the issuance of Opinion No. 644 and CEI's conversion of two plants from coal to oil-fired.

Notice of this filing was issued February 7, 1975, with protests and petitions to intervene due on or before February 21, 1975.

On February 21, 1975, City filed a Petition to Intervene, Protest and Motion to Reject or Suspend for the Maximum Period the proposed revision. The Commission by Order dated February 28, 1975, suspended the proposed rates and charges for one day, to become effective March 4, 1975, set the proposed rates and charges for hearing and established the procedural dates relating to them, and denied City's motion to reject.

On March 31, 1975, City filed an Application for Rehearing of the Commission Order dated February 28, 1975.

City claims it is impossible to characterize the 11 kV load transfer service as "an integral part of coordination and interchange arrangements in the nature of power pooling transactions" under § 35.13 (b) (4) (ii) of the Commission's regulations since there are no elements of a power pooling transaction present in this agreement, nor has CEI asserted or provided support for this conclusion in their submittal.

City's claim that there are no elements of power pooling fails to recognize the distinction made in the Commission order of February 28, 1975 that the present rate was designed to meet a temporary emergency situation, was never intended to supply firm service, and is in the nature of a pooling transaction. Quoting from Page 3 of the order: "Such service is clearly of a temporary emergency nature and was never intended to provide a firm energy supply to the City. Thus, CEI is pooling its overall energy supply in such a manner so as to assist City in meeting its day-to-day requirements". By the nature of the data requested in § 35.13(b) (4) (iii) of the regulations, it is clear that such data is useful in testing full and partial requirement firm and transmission service. These services are generally for an extended period of time and the utilities rendering such services include the loads associated with this service in their long term planning. This is not characteristic of the temporary emergency, non-firm 11 kV load transfer service. Other services are generally grouped in the broad category of services comprising an integral part of coordination and interchange arrangements in the nature of power pooling transactions. The latter services cover a wide range of contractual arrangements. The cost support for which varies depending on the nature of the service involved. Thus § 35.13(b) (4) (ii) of the regulations provides that increases in rates in these latter services shall be supported by the cost data identified in § 35.12(b) (2) of the regulations. The cost data requirements of § 35.12(b) (2) are very general in nature. For example, § 35.12(b) (2) (ii) requires "A summary statement of all cost (whether fully distributed, incremental or other) computations involved in arriving at the derivation of the level of the rate, in sufficient detail to justify the rate . . ." The 11 kV load transfer service is properly characterized as being included within these latter services. CEI properly submitted the data required by § 35.12(b) (2).

City claims that the Commission's ruling that § 35.12(b) (2) rather than § 35.13 governs the rate filing constitutes a prejudgment by the Commission, without evidence and prior to hearing, of one of the issues to be heard, namely, whether the rate for the load transfer service may be established on an incremental cost basis. City claims that this is a denial of due process of law, and is at odds with the Commission's Opinion No. 644 and accompanying order issued January 11, 1973.

The Commission by its order of February 28, 1975, did not decide that the rate for the 11 kV load transfer service may, or will, be set on an incremental cost basis. The Commission only decided that, according to its duly and lawfuly promulgated regulations, CEI has filed the necessary data to be given a filing date and to have the proposed rates and charges accepted for filing subject to Commission suspension power. The order allowed the rates to go into effect after a one day suspension subject to refund and established a hearing for determination of the lawfulness and reasonableness of the proposed rates and charges. The City can raise at the hearing the issue of on what basis the proposed rates and charges should be set. The City can file whatever evidence it feels is appropriate to determine the justness and reasonableness of the proposed rates and charges and will have opportunity at the hearing to present evidence and cross examine witnesses. CEI has the burden of proof of showing that its proposed rates and charges are just and reasonable. The present rates established by Opinion No. 644 and the accompanying order issued January 11, 1973, were not developed by utilizing a fully allocated cost study supported by statements A through O but were supported by cost data other than fully distributed system costs.

The City claims that the Commission erred in its order issued February 28, 1975 in stating that a permanent 138 kV synchronous interconnection was scheduled to be operational by March 15, 1975. The order merely recites that CEI alleged, not the Commission, that March 15, 1975, was the operational date as follows on page 2: "This latest rate was established pending completion of a permanent 138 kV synchronous interconnection scheduled to be operational, *according to CEI*, by March 15, 1975." (Emphasis added) When the permanent 138 kV interconnection is operational, there will no longer be any need for the 11 kV load transfer service. The proposed rates for the 11 kV load transfer service are in effect subject to refund.

The Commission finds: The alleged errors and grounds for rehearing raise no new issues of fact or law which justify granting rehearing.

The Commission orders: (A) City's Application for Rehearing is hereby denied.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

ATTACHMENT A

RATE SCHEDULE DESIGNATIONS AND DESCRIPTIONS—E-9255, CLEVELAND ELECTRIC ILLUMINATING CO., OTHER PARTY: CITY OF CLEVELAND, OHIO

[1] See Attachment A for Rate Schedule Designations.

Designation	Description
Supp. No. 5 to rate schedule FPC No. 7.	Presiding examiner's initial decision in consolidated proceeding. (Dockets Nos. E-7631, E-7633, E-7713.) Issued: July 12, 1972.
Supps. Nos. 1 to 5 to rate schedule FPC No. 7.	Ordering paragraphs of Commission opinion and order in interconnection proceeding in opinion No. 644. (Dockets Nos. E-7631, E-7633, E-7713.) Issued: Jan. 11, 1973.
Supps. Nos. 2 to 5 to rate schedule FPC No. 7.	Transmittal letter revising rates established by opinion No. 644. Dated: Jan. 31, 1975. Filed: Jan. 31, 1975.
Exhibit A to supps. Nos. 2 to 5 to rate schedule FPC No. 7.	Comparison of revenues under present and proposed rates. Filed: Jan. 31, 1975.

[FR Doc.75-11148 Filed 4-28-75;8:45 am]

[Docket No. RI75-128]

CRA, INTERNATIONAL, INC.

Petition for Special Relief

APRIL 22, 1975.

Take notice that on April 10, 1975, CRA International Inc., (Petitioner), 5416 South Yale Avenue, Tulsa, Oklahoma 74135, filed a petition for special relief in Docket No. RI75-128 pursuant to Order No. 481 and § 2.76 of the Commission's general policy and interpretations. Petitioner seeks a rate increase to 51.86 cents per Mcf for the sale of natural gas to Tennessee Gas Pipeline Company from the Trans-Tex Field (No. Louise), Brooks County, Texas under its FPC Gas Rate Schedule No. 1, Supplement No. 25. Petitioner states that its objective is to obtain an increase in price for its Trans-Tex Field gas where compression is required in order to increase ultimate gas recovery and deplete the reservoirs.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 12, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 75-11149 Filed 4-28-75;8:45 am]

[Docket No. E-9267]

ELECTRIC ENERGY, INC.

Order Accepting Proposed Agreements and Rate Increase for Filing, Granting Motion for Waiver of Notice Requirements, Instituting Investigation, and Establishing Procedures

APRIL 23, 1975.

On February 18, 1975,[1] Electric Energy, Incorporated (EEI), tendered for filing (1) Modification No. 11 to its Contract No. AT-(40-1)-1312 (Contract) with the Energy Research and Development Administration (ERDA) which is the successor to the Atomic Energy Commission (AEC), and (2) Amendment No. 5, entitled Interim Supplemental and Surplus Power Agreement, Amendment No. 5 (Agreement), between EEI and its Sponsors.[2][3] The Contract and Agreement supersede the terms of the current agreement negotiated between EEI and the AEC in 1953, which govern the sale of surplus power and energy available from EEI's 1000 MW Joppa Plant, which was constructed to provide 735 MW of firm power to the AEC's gaseous diffusion facility at Paducah, Kentucky. The Contract provides for the delivery of 735 MW of power from April 1, 1975 through December 31, 1989, except for the months of June through September, 1975, 1976 and 1977, when only 235 MW is to be delivered.

The tendered agreements would result in additional charges to ERDA of $64,976 and to the Sponsors of $860,442, for the twelve month period ending March 31, 1976. EEI states in its tendered filing that the primary reason for the projected increase in revenues is an increase in the return on equity capital. EEI is limited to a 10 percent return on equity under the current contract. Our analysis indicates that the proposed increase in return to common equity to a level of 13 percent will result in an overall rate of return of only 5.49 percent. The proposed contracts would also change the allocation arrangement of power and energy from the current method under which ERDA has the right to the first 735 MW, with the remainder to be made available to the Sponsors, to a plan under which ERDA and the Sponsors have an equal right to specific percentages of the Joppa Plant output. The company states that this change in plant participation accounts for the larger projected increase in charges to the Sponsors. Under the new agreement, ERDA will also benefit from non-operating income of EEI, an item previously used to decrease charges to the Sponsors.

The new agreement also provides for additional services to be made available to ERDA, such as economy energy, additional power and make-up power, which may be beneficial to ERDA in that the opportunity to purchase energy at a lower cost than that produced at the Joppa Plant is not provided under the current agreement.

Also included within the terms of the proposed agreement is a provision for ERDA to pay a surcharge during the period August 1, 1980 through December 31, 1989, in consideration for the extension of delivery of 500 MW of power beyond December 31, 1979. Using the formula provided by the company for computing the surcharge, our analysis reveals that EEI will receive approximately $42.5 million during the period that the surcharge is effective. EEI contends that such surcharge constitutes satisfaction of and compliance with the requirements of the present agreement which provides for a "partial reimbursement for costs incurred by the Sponsoring Companies" pursuant to the cancellation and consequent reinstatement of the 500 MW of power during the term of the current agreement. The company states further that the surcharge provision was arrived at and agreed to through negotiations between the parties.

Notice of EEI's tendered filing was issued on February 24, 1975 with comments, protests and petitions to intervene to be filed on or before March 13, 1975. No responses to such notice have been received.

On March 24, 1975, EEI filed a motion at this docket requesting waiver of the thirty day notice requirement of § 35.3 (a) of the Commission's regulations so as to allow implementation of the proposed agreements and associated rate schedules on April 1, 1975. Notice of the filing of such motion was issued on March 28, 1975 with responses due on or before April 14, 1975. No responses have been received.

Upon consideration of EEI's tendered filing and subsequent motion, we are of the opinion that the filing should be accepted, effective April 1, 1975, as proposed. However, our review indicates further, that the proposed surcharge, to be effective during the 1980's may be excessive, unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful within the meaning of the Federal Power Act. Accordingly, we shall direct that a hearing be held to determine the lawfulness of such surcharge provision and the level of rates to be charged pursuant to such provision.

The Commission finds: (1) Good cause exists to accept for filing and make effective as of April 1, 1975, those agreements and associated rate schedules tendered by EEI on February 18, 1975 as supplemented by additional data tendered by letter dated March 21, 1975.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act, particularly sections 206, 307, 308 and 309

[1] EEI completed its submittal by tendering additional information by letter dated March 21, 1975.

[2] EEI is sponsored by Union Electric Company, Illinois Power Company, Kentucky Utilities Company, and Central Illinois Public Service Company.

[3] For designations of Modification 11 and Amendment No. 5, see Appendix A, attached.

thereof, that the Commission enter upon a hearing concerning the lawfulness of the proposed provisions and rates and charges relating to the proposed surcharge contained within EEI's filing of February 18, 1975, as completed on March 21, 1975.

(3) Good cause exists to grant EEI's motion of March 24, 1975, requesting waiver of the thirty day notice requirement set forth at § 35.3(a) of the Commission's regulations.

The Commission orders: (A) EEI's motion of March 24, 1975 requesting waiver of the thirty day notice requirement set forth at § 35.3(a) of the Commission's regulations is hereby granted.

(B) EEI's proposed Contract and Agreement, and associated rate schedules as tendered on February 18, 1975, and completed on March 21, 1975, are hereby accepted for filing and permitted to become effective on April 1, 1975, as proposed.

(C) Pursuant to the authority of the Federal Power Act, particularly sections 206, 307, 308, and 309 thereof, the Commission's rules of practice and procedure, and the Regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held on November 18, 1975, at 10 a.m., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, concerning the lawfulness of EEI's proposed surcharge.

(D) On or before August 19, 1975, EEI shall serve its case-in-chief, including testimony and exhibits in support of its proposed surcharge. The Commission Staff shall serve its prepared testimony and exhibits on or before September 23, 1975. Any intervenor evidence shall be served on or before October 14, 1975. Company rebuttal evidence shall be served on or before November 4, 1975.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11160 Filed 4-28-75;8:45 am]

[Docket No. CP75-292]

FLORIDA GAS TRANSMISSION CO.

Application

APRIL 22, 1975.

Take notice that on April 10, 1975, Florida Gas Transmission Company (Applicant), P.O. Box 44, Winter Park, Florida 32789, filed in Docket No. CP75-292 an application pursuant to section 7 of the Natural Gas Act, as implemented by §§ 157.7(b) and 157.7(g) of the Commission's regulations thereunder (18 CFR 157.7(b) and 157.7(g)), for a certificate of public convenience and necessity authorizing the construction during the twelve-month period commencing July 1, 1975, and operation of facilities to enable Applicant to take into its certificated system natural gas purchased from producers thereof and for a certificate of public convenience and necessity authorizing the construction and for permission for and approval of the abandonment, during the same period, and operation of field compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is (1) to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system additional supplies of natural gas in areas generally coextensive with said system and (2) to enable Applicant to construct and abandon field gas compression and related facilities which will not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed gas purchase facilities will not exceed $12,000,000, with no single onshore project expenditure to exceed $1,500,000 and no single offshore project expenditure to exceed $2,500,000 and that the total cost of its proposed construction, relocation, removal or abandonment of field compression facilities will not exceed $3,000,000, with no single project to exceed $500,000. Applicant states that these costs will be financed from internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 15, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by section 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11151 Filed 4-28-75;8:45 am]

[Docket No. CP75-227]

MONTANA-DAKOTA UTILITIES CO.

Postponement of Hearing

APRIL 21, 1975.

On April 21, 1975, Staff Counsel filed a motion to postpone the hearing date fixed by order issued March 28, 1975, as most recently modified by notice issued April 7, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the hearing date in the above matter is postponed to April 30, 1975, at 9 a.m. (e.d.t.).

MARY B. KIDD,
Acting Secretary.

[FR Doc.75-11162 Filed 4-28-75;8:45 am]

[Docket No. RP71-125; PGA75-10]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Purchased Gas Cost Adjustment to Rates and Charges

APRIL 22, 1975.

Take notice that Natural Gas Pipeline Company of America (Natural) on April 6, 1975, tendered for filing Twenty-third Revised Sheet No. 5 to its FPC Gas Tariff, Third Revised Volume No. 1 to become effective June 1, 1975, pursuant to the Purchased Gas Cost Adjustment Clause (PGA Clause) provision contained in its Tariff. Natural proposes to increase its rates to reflect changes in the cost of gas purchased from producer suppliers and to recover accumulated deferred purchased gas costs as of February 28, 1975. Natural states that the Deferred Purchased Gas Cost Account balance as of February 28, 1975 was adjusted to eliminate the cost changes and recoveries applicable to changes that were filed for and made effective February 5, 1975 in Natural's Special One-Time PGA filing pursuant to Opinions 699-G and 699-H.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the

Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 8, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11153 Filed 4-28-75;8:45 am]

[Docket Nos. RP61-8, RP65-50, RP67-21, and RP68-17]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Report of Refunds

APRIL 22, 1975.

Take notice that on April 15, 1975, Natural Gas Pipeline Company of America (Natural) tendered for filing a report of refunds in the above-captioned dockets. Natural states that the refunds are a result of a settlement with the Internal Revenue Service respecting certain depreciation deductions for the tax years 1962 through 1968. Natural further states that this settlement triggers refund obligations under rate settlements in the captioned dockets.

Natural states that copies of the refund report were mailed to its customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 8, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11154 Filed 4-28-75;8:45 am]

[Docket No. RI75-116]

NORTHEAST BLANCO DEVELOPMENT CORP.

Order Granting Rehearing, Setting Proceeding for Hearing, and Providing for Interventions

APRIL 22, 1975.

On March 26, 1975, Northeast Blanco Development Corp. (Blanco) filed an application for rehearing of the Commission order issued February 28, 1975, in the above-captioned docket requesting that the Commission grant rehearing and accept its Notices of Rate Change filed on January 29, 1975 as Supplement Nos. 11 and 12 to Blanco's FPC Gas Rate Schedule No. 1.

On October 21, 1974, the date of expiration of its March 18, 1953 basic contract with El Paso Natural Gas Company (El Paso) covering sales of natural gas from certain fields in the San Juan Basin Area, Blanco filed for a unilateral increase, designated as Supplement No. 9 to its FPC Gas Rate Schedule No. 1, from its then effective rate of 29.33 cents per Mcf to the Opinion No. 699[1] base rate of 43 cents per Mcf.

Inasmuch as the sale was not covered by Opinion No. 699 and the proposed rate exceeded the applicable area rate ceiling set by Opinion No. 658,[2] the Commission, in an order issued on November 19, 1974 in Docket No. RI75-69, suspended Blanco's proposed increase for five months until April 21, 1975.

On January 29, 1975, Blanco filed two separate Notices of Rate Change. The first, designated as Supplement No. 11 to Blanco's FPC Gas Rate Schedule No. 1, requested the Opinion No. 699-H[3] just and reasonable base rate of 50 cents per Mcf[4] for the retroactive locked-in period of October 20 to December 31, 1974 set by Docket No. RI75-69. The second notice, Supplement No. 12, sought the post-January 1, 1975, Opinion No. 699-H nationwide just and reasonable base rate of 51 cents per Mcf.[5]

By Commission order issued February 28, 1974, in Docket No. RI75-116, Blanco's rate increase filing for the locked-in period of October 20, to December 31, 1974, was rejected inasmuch as the suspension order in Docket No. RI75-69 prohibited a change in the suspended rate (the underlying rate in Docket No. RI75-116) and good cause had not been shown for waiver of this prohibition or for granting the increase retroactively.

However, Blanco's rate increase filing for the 51 cent Opinion No. 699-H nationwide rate was suspended for the statutory five month period commencing on April 21, 1975, the date the underlying rate under suspension in Docket No. RI75-69 will become effective subject to refund. The proposed 51 cent rate was suspended because it exceeded the ceiling rate under Opinion No. 658 and because the sale was not covered by Opinion No. 699, as amended.

In its application for rehearing filed herein, Blanco avers that it has been unable to negotiate a renewal contract with El Paso covering the subject sales because El Paso has refused to bargain in good faith.[6] Accordingly, Blanco contends that it should be allowed to collect the nationwide rate provided for in Opinion No. 699 inasmuch as the Commission in Opinion No. 699-H indicated that a failure of the purchaser to bargain in good faith could provide a basis for Commission action to remedy the situation.[7]

In light of the above, we find that a sufficient question has been raised concerning the applicability of the nationwide rate herein to warrant rehearing of our order issued February 28, 1975, in Docket No. RI75-116. Accordingly, we shall grant rehearing and set this case for formal hearing on the limited issues: (1) Whether El Paso has been guilty of bad faith concerning the negotiation of a renewal contract with Blanco; (2) if so, whether Blanco is entitled to the nationwide rate as a result thereof; and (3) if so, what the appropriate effective date of said rate should be.

Blanco shall bear the burden of proof with respect to its claim that El Paso has been guilty of bad faith concerning the negotiation of a renewal contract.

The Commission finds: Good cause exists to grant rehearing of the Commission order issued on February 28, 1975, in Docket No. RI75-116.

The Commission orders: (A) Rehearing of the Commission's order of February 28, 1975, in Docket No. RI75-116 is granted.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 7, 14 and 16 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter 1), Docket No. RI75-116 is set for hearing and disposition.

(C) A public hearing on the issues set forth in the body of this order shall be held commencing on June 24, 1975, 10 a.m. (edt) in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

(D) A Presiding Law Judge to be designated by the Chief Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding pursuant to the Commission's rules of practice and procedure.

(E) Blanco and any intervenor supporting the application shall file their direct testimony and evidence on or before May 13, 1975. All testimony and evidence shall be served upon the Presiding Judge, the Commission Staff, and all parties to this proceeding.

(F) The Commission Staff, and any intervenor opposing the application, shall file their direct testimony and evidence on or before June 10, 1975. All testimony and evidence shall be served upon the Presiding Judge, and all other parties to this proceeding.

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[1] ____ F.P.C. ____ (June 21, 1974) (hereinafter Opinion No. 699).

[2] Area Rate For The Rocky Mountain Area, Docket No. R-425, 49 F.P.C. 924 (1973).

[3] ____ F.P.C. ____ (December 4, 1974), 18 CFR 2.56a (hereinafter Opinion No. 699-H).

[4] The total rates sought by Blanco, after BTU, tax, and liquid adjustment are 61.6717 and 62.8852 cents per Mcf, respectively, pursuant to Suplement Nos. 11 and 12 to its FPC Gas Rate Schedule No. 1.

[5] *See* 18 CFR 2.56a(a) (3).

[6] For the nationwide just and reasonable rate promulgated in Opinion No. 699-H to be applicable to a sale once the base contract has been terminated, a renewal contract must be entered into for the subject sale. *See* Opinion No. 639-H, mimeo at 40-44.

[7] *Id*, mimeo at 43.

(G) All rebuttal testimony and evidence shall be served on or before June 17, 1975. All parties submitting rebuttal testimony and evidence shall serve such testimony upon the Presiding Judge, the Commission Staff, and all other parties to the proceeding.

(H) Notice of intervention or petitions seeking leave to intervene in this proceeding shall be filed with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the rules of practice and procedure, 18 CFR §§ 1.8 and 1.37(f), on or before May 6, 1975.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-11155 Filed 4-28-75;8:45 am]

[Docket No. CP75-285]

NORTHERN NATURAL GAS CO.

Application

APRIL 22, 1975.

Take notice that on April 1, 1975, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP75-285 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon and remove one 1,080 HP turbine compressor unit from its Redfield Storage Field (Redfield) located in Dallas County, Iowa, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it presently has seven compressor units with a total of 10,240 compressor horsepower installed at Redfield. Applicant claims that there is a need to reduce the operating pressure in the Redfield reservoir which reduces the volumes of gas proposed to be stored at Redfield and, in turn, reduces the compressor horsepower requirements. Applicant estimates the peak day volume of gas requiring compression at Redfield during 1975 will be 350,000 Mcf during the injection season and 370,000 Mcf during the withdrawal season, with declining volumes expected thereafter. (The estimated peak day withdrawal volume is that volume which could be available during the early part of the withdrawal season, if needed). Applicant states that it has 1,080 horsepower in excess of the 9,160 horsepower required to compress the volumes to be injected into and withdrawn from Redfield. Thus, Applicant proposes to abandon and remove one of the 1,080 HP turbine units from Redfield to be retired to stock for relocation and installation elsewhere on its system when required. Applicant states that no service will be terminated as a result of the proposed abandonment.

Applicant states that it has need for compressor horsepower elsewhere on its system to reduce gathering line pressure in order to maintain deliverability and satisfy contractual pressure obligations and to take into its system additional supplies of natural gas purchased from fields located in the general area of its existing system.

The estimated cost of removing the Redfield compressor unit is $11,000 which will be financed from cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 14, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-11156 Filed 4-28-75;8:45 am]

[Docket No. CP75-287]

NORTHWEST PIPELINE CORP.

Application

APRIL 22, 1975.

Take notice that on April 7, 1975, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP75-287 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing an increase in the seasonal and daily volumes of storage service sales by Applicant to certain of its customers, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant requests authorization to increase from 8,500,000 Mcf to 9,300,000 Mcf the seasonal volume of natural gas which is authorized to sell and deliver pursuant to its FPC Rate Schedule SGS-1. Applicant further requests that it be authorized to sell and deliver on a firm basis the 60,000 Mcf per day of SGS-1 service heretofore authorized on a best efforts basis for the 1974-75 heating season, thereby increasing from 240,000 Mcf per day to 300,000 Mcf per day the maximum daily quantity Applicant is authorized to sell and deliver pursuant to Rate Schedule SGS-1. The authorization requested is for the period commencing October 16, 1975, and each October 16 thereafter and continuing through each succeeding April 15.

The application states that Applicant, as successor in interest to El Paso Natural Gas Company, is a principal party to the Gas Storage Agreement dated June 25, 1970, as amended, between Applicant, Washington Natural Gas Company (Washington Natural) and Washington Water Power Company (Water Power). The agreement provides, inter alia, that Washington Natural, the designated operator of Jackson Prairie Storage Project (Jackson Prairie), accept for underground storage volumes of natural gas to be delivered by Applicant and upon request of Applicant, the withdrawal of such quantities of working gas as are required by Applicant to meet the contract demand and seasonal quantities in its then effective gas storage service agreements pursuant to which Applicant provides storage service to certain of its customers.

Applicant states that Washington Natural has filed an application in Docket No. CP75-110 requesting authorization to construct and operate the facilities necessary to increase the capability of the Jackson Prairie Storage Project so as to deliver, commencing with the 1975-76 heating season, up to 300,000 Mcf daily and 9,300,000 Mcf during any seasonal period commencing with October 16 and continuing through the next succeeding April 15.

Applicant proposes that for the 1975-76 season and thereafter, the contract demand including the 60,000 Mcf per day of additional firm deliverability and the additional 800,000 Mcf seasonal quantity would be as follows:

	Contract demand		Seasonal quantity	
	M/ft³	Therms	M/ft³	Therms
California-Pacific Utilities Co.	4,229	44,400	131,004	1,370,000
Cascade Natural Gas Co.	26,714	280,500	827,709	8,650,000
Intermountain Gas Co.	22,314	234,300	691,830	7,230,000
Northwest Natural Gas Co.	37,076	389,300	1,149,223	12,010,000
Peoples Natural Gas Division of Northern Natural Gas Co.	724	7,600	22,008	230,000
Southwest Gas Co.	8,942	93,900	277,423	2,900,000
Washington Natural Gas Co. and Washington Water Power Co., jointly	200,001	2,100,000	6,200,038	64,800,000
Total	300,000	3,150,000	9,300,000	97,190,000

Applicant states that, although it will not require any additional investment in new facilities to perform the proposed service, it will be required to share in one-third of the investment required to increase the storage capacity in the Jackson Prairie Storage Project. Applicant's share of the additional facilities proposed by Washington Natural is $883,800, plus $323,280 for Applicant's proportionate share of the cost of 1,200,000 Mcf of additional cushion gas required to provide the increased storage service. Applicant further states that its present demand charge for SGS-1 service will recover the fixed costs attributable to the additional facility costs and that its present commodity charge for such service will recover Applicant's cost of purchased gas plus an amount to recover the transmission costs associated with the delivery and sale of the seasonal quantity. Applicant shows an average purchased gas cost of 80.82 cents per Mcf, incremental revenues associated with the additional storage service proposed of $1,175,000 per year for the first three years of such service and excess revenues over cost of service of $265,000, $274,000, and $283,000, respectively, for the first three years of service.

Applicant asserts that the limited availability of natural gas from new gas supply sources with which to replace the declining deliverability of existing domestic supply sources will further restrict Applicant's ability to meet its firm contract obligation during periods of high demand, thereby increasing the level of curtailment its customers are currently experiencing. Applicant further asserts that the increased development of storage capability, while not providing increased annual volumes, will provide additional seasonal and peak day capability, thereby assisting Applicant in meeting the high priority requirements of its customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 13, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11166 Filed 4-28-75;8:45 am]

[Docket No. CP75-294]

NORTHWEST PIPELINE CORP.

Application

APRIL 22, 1975.

Take notice that on April 10, 1975, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP75-294 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale to, the transportation for and the exchange of natural gas with Mountain Fuel Supply Company (Mountain Fuel), all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Pursuant to a Gas Purchase, Transportation and Exchange Agreement dated February 17, 1975, Applicant proposes to deliver approximately 6,000 Mcf of gas per day from the Barrel Springs Area, Carbon County, Wyoming, to Mountain Fuel at a point on Mountain Fuel's 10-inch pipeline located in Carbon County, Wyoming. Mountain Fuel will receive for exchange such volumes as are delivered by Applicant and will redeliver equivalent volumes, subject to Mountain Fuel's option to purchase 25 percent of the volumes delivered for exchange, at an existing point of interconnection between the facilities of Applicant and Mountain Fuel in Sweetwater County, Wyoming. Applicant will be charged an initial rate of four cents (4 cents) per Mcf by Mountain Fuel as a transportation charge for the gas to be delivered in exchange by Mountain Fuel to Applicant. In addition to the purchased cost of gas,[1] Applicant will charge Mountain Fuel in its proposed sale its cost-of-service, the initial rate to be 16½ cents per Mcf, including return on its investment in gathering, compression, treating and transmission facilities. Applicant indicates that the parties will attempt to balance the exchange gas to the extent possible, monthly and on a Btu basis.

To effect the exchange, Applicant states that it intends to construct the necessary gathering and transmission facilities under the budget-type certification requested in Docket No. CP75-107.[2]

Applicant further states that it proposes the subject exchange because the gas available to Applicant in the Barrel Springs area is proximate to Mountain Fuel's system and relatively distant from Applicant's system.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 14, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to inter-

[1] Applicant states it has entered into gas purchase contracts with American Resources Management Corp., small producer certificate applicant in Docket No. CS75-100 and the Kemmerer Coal Company, small producer certificate applicant in Docket No. CS75-163. The contracts according to Applicant, served for an initial rate of 55 cents per Mcf, adjusted for Btu.

[2] Applicant, on February 14, 1975, filed in Docket No. CP75-107, its Petition to amend the Order issued January 2, 1975, to increase total and single project cost of budget-type gas purchase facilities. The petition to amend was filed to permit Applicant to construct facilities at the higher annual and single project costs provided by Order No. 522, issued January 16, 1975, in Docket No. RM75-2.

vene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11157 Filed 4-28-75;8:45 am]

[Docket No. CI75-406]

PHILLIPS PETROLEUM CO.

Extension of Procedural Dates

APRIL 21, 1975.

On April 18, 1975, Phillips Petroleum Company filed a motion for reconsideration of the procedural dates filed by notice issued April 16, 1975, in the above-designated matter.

Upon consideration, notice is hereby given that the procedural dates in the above-matter are modified as follows:

Service of supporting testimony, May 19, 1975.
Hearing, June 5, 1975. (10 a.m., e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11158 Filed 4-28-75;8:45 am]

[Docket No. E-8882]

PUBLIC SERVICE COMPANY OF COLORADO

Extension of Procedural Dates

APRIL 22, 1975.

On April 22, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued August 30, 1974, as most recently modified by notice issued March 6, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of staff's testimony, May 6, 1975.
Service of intervenor's testimony, May 13, 1975.
Service of company rebuttal (unchanged), May 20, 1975.
Hearing (unchanged), June 3, 1975 (10 a.m., e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11159 Filed 4-28-75;8:45 am]

[Docket No. CP75-293]

SOUTHERN NATURAL GAS CO.

Application

APRIL 22, 1975.

Take notice that on April 10, 1975, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP75-293 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain natural gas transmission facilities located in Main Pass Block 80, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authority to abandon 3.25 miles of 4½-inch pipeline connecting Main Pass Block 80 with Main Pass Block 69. Applicant states that the line proposed to be abandoned was installed under Applicant's budget-type certificate issued on July 1, 1968 (40 FPC 6), in order to receive gas from Shell Oil Company sold under Shell's temporary certificate in Docket No. CI69-242. Applicant explains that it later constructed more permanent facilities pursuant to the Commission's order of January 17, 1969 (41 FPC 59), to receive Shell's gas. Applicant states that the subject line has been maintained as a standby gas supply facility which Applicant believed could be of benefit in attaching new gas supplies in the area. Applicant claims that the subject line has been damaged due to outside forces and that it would not be economical to repair and maintain the line as there now appears little likelihood for attaching new reserves through the use of this line. Applicant proposes to remove and salvage a certain portion of the subject line and to abandon the balance in place. Applicant estimates the cost of removal will be $3,100 and the value of the facilities to be salvaged will be $1,016.

Applicant states that no service is presently being rendered through use of the subject facilities and that the proposed abandonment will have no effect on Applicant's pipeline system operation.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 13, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11160 Filed 4-28-75;8:45 am]

[Docket No. CI75-594]

TEXACO, INC.

Petition for Declaratory Order

APRIL 22, 1975.

Take notice that on April 8, 1975, Texaco Inc. (Texaco), P.O. Box 52332, Houston, Texas 77052, filed in Docket No. CI75-594 pursuant to section 1.7(c) of the Commission's rules of practice and procedure (18 CFR 1.7(c)) a petition for a declaratory order to resolve Texaco's question of whether a lessee by making an interstate gas sale, can commit more than its real property interest (i.e., its rights under its lease), thereby both encumbering forever the real estate and imposing upon the nonparticipating mineral fee owner the obligations of section 7 of the National Gas Act, as more fully set forth in the petition which is on file with the Commission and open to public inspection.

The petition indicates that on August 7, 1925, Gulf Production Company, the corporate predecessor of Gulf Oil Corporation (Gulf), as lessee, executed a 50-year fixed term oil and gas lease with Goldsmith, et al., lessors. The petition further indicates that by the terms of said lease Gulf obtained the exclusive right of exploiting 19,840 acres of land in Ector County, Texas, and producing oil and gas therefrom and that the leasehold estate expires on August 7, 1975, whereupon the mineral rights shall revert to the reversionary mineral interest owners. Texaco states that it acquired a reversionary mineral interest ownership in the aforesaid property in Ector County, Texas, when on May 4, 1929, Goodman et. al., conveyed to Texaco (then The Texas Company) one-fourth of the oil, gas and other minerals, and a like interest in the royalties under any lease, in the property.

Texaco states that Gulf is currently selling gas from the aforementioned properties to Phillips Petroleum Company (Phillips) under a casinghead gas sales contract and that Phillips sells, from the tailgate of its Goldsmith Plant in Ector County, Texas, the residue gas to El Paso Natural Gas Company (El Paso) under Phillip's FPC Rate Schedule Nos. 7, 32, 33, 497, and 483. Texaco states that, as a royalty owner, it is in no way a party to either the present contract by which Gulf sells production from

the aforementioned property to Phillips or to the residue gas sales contracts under which Phillips sells gas from the Goldsmith Plant to El Paso.

Texaco states that the question it raises in the instant petition is identical to a question raised by El Paso in its petition for declaratory order in Docket No. CP75-209.[1] Texaco alleges that based on the facts presented by El Paso in its petition in Docket No. CP75-209 the reversioners therein, including Exxon Corporation and Mineral Interest Owners, are in the same legal position as is Texaco in the instant factual setting. Texaco states that it adopts the legal arguments made in the pleadings of Exxon Corporation and Mineral Interest Owners, dated March 3, 1975, in the proceeding in Docket No. CP75-209, but reserves its right to file formal briefs in the instant proceeding should the Commission desire further argument.

In the event that the Commission issues a declaratory order without giving the parties an opportunity for further briefing, Texaco requests that the Commission expressly hold that no abandonment authorization is needed upon termination of Gulf's oil and gas leasehold estate, and that Texaco's reversionary mineral interest is unencumbered by previous actions taken and commitments made by Gulf and by Phillips with respect to gas produced from Gulf's terminated leasehold estate.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 14, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11161 Filed 4-28-75;8:45 am]

[Docket No. RP75-19]

TEXAS GAS TRANSMISSION CORP.

Extension of Procedural Dates

APRIL 22, 1975.

On April 17, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued October 30, 1974, as most recently modified by notice issued March 10, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of intervenor's testimony, June 30, 1975.
Service of intervenor's and staff's reply, July 29, 1975.
Service of company rebuttal, August 12, 1975.
Hearing, August 19, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11162 Filed 4-28-75;8:45 am]

[Dockets Nos. RP69-41 et al. and RP71-75]

TEXAS GAS TRANSMISSION CORP.

Report of Refunds

APRIL 22, 1975.

Take notice that on December 2, 1974, Texas Gas Transmission Corporation, (Texas Gas), submitted a report of refunds made to its jurisdictional sales customers covering refunds applicable to the period January 10, 1971, through March 31, 1972. The company states that the refund checks were mailed to their customers on November 27, 1974. The company's filing indicates that such refunds totaled $1,376,577.86 and had been deferred pending completion of appeals of the Commission's Opinion Nos. 598 and 598-A.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 7, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11163 Filed 4-28-75;8:45 am]

[Docket No. E-9385]

UNION ELECTRIC CO.

Filing of Letter Agreement and Request for Waiver

APRIL 22, 1975.

Take notice that on April 17, 1975 the Union Electric Company (Union) tendered for filing a letter agreement between Union and the Missouri Utilities Company (Missouri) dated February 21, 1975. Union states that the letter agreement provides (1) for Missouri to construct a 161 kV line from their existing Stoddard Substation to their new Richland Substation, providing an additional point of delivery between the parties; (2) for Union to construct a new 161 kV line from the existing Rivermines-Cape line to the new Wedekind Substation to be constructed by Missouri; (3) for the modification of certain provisions of the December 9, 1968 letter agreement between the parties relating to supply to Charmin Products Company (Supplement No. 7 to Rate Schedule FPC No. 47) to recognize the effect on the parties' systems of the new Wedekind Substation; and (4) for the temporary supply of a portion of Citizens Electric Corporation's load through facilities of Missouri.

Union further states that inasmuch as this filing was delayed until the parties could incorporate all desired provisions into one document, a waiver of the thirty day notice requirement of this Commission's rules and regulations is requested to allow an effective date of March 14, 1975 (the in-service date for the Richland Substation).

Union additionally states that copies of this filing have been sent to Missouri, Cape Girardeau, Missouri, and to the Missouri Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 5, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11164 Filed 4-28-75;8:45 am]

[Docket No. E-9200]

UPPER PENINSULA POWER CO.

Extension of Procedural Dates

APRIL 22, 1975.

On April 18, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued January 30, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objections.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of staff's testimony, June 24, 1975.
Service of intervenor's testimony, July 8, 1975.
Service of company rebuttal, July 22, 1975.
Hearing, August 5, 1975 (10 a.m., e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-11165 Filed 4-28-75;8:45 am]

[1] Notice of El Paso's petition was published in the FEDERAL REGISTER on February 7, 1975 (40 FR 5818).

FEDERAL RESERVE SYSTEM

ARIZONA EQUITIES, INC.

Acquisition of Bank

Arizona Equities, Inc., Scottsdale, Arizona, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 3.4 per cent or more of the voting shares of The Arizona Bank, Phoenix, Arizona. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 22, 1975.

Board of Governors of the Federal Reserve System, April 21, 1975.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc. 75-11088 Filed 4-28-75;8:45 am]

FIRST NATIONAL CHARTER CORP.

Order Approving Acquisition of Bank

First National Charter Corporation, Kansas City, Missouri, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of The Aurora Bank, Aurora, Missouri ("Bank").

The application has been processed by the Federal Reserve Bank of Kansas City pursuant to authority delegated by the Board of Governors of the Federal Reserve System under the provisions of § 265.2(f)(24) of the rules regarding delegation of authority.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and this Reserve Bank has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the fourth largest banking organization in Missouri, controls 15 banks with aggregate deposits of $810.9 million, representing 5.42 percent of the commercial deposits in the State.[1] Acquisition of Bank would increase Applicant's share of deposits only slightly, and would not result in a significant increase in the concentration of banking resources in Missouri. Applicant's ranking among banking organizations in the State would remain unchanged.

[1] All banking data are as of June 28, 1974, and reflect bank holding company formations and acquisitions approved by the Board to March 21, 1975.

Bank (1974 year-end deposits of $17.2 million) is the second largest of nine banking organizations in the relevant banking market[2] with 20.6 percent of the deposits in commercial banks in the market. The largest bank in the market controls 21.6 percent of total deposits therein. Applicant's two nearest banking subsidiaries, neither of which compete in the relevant banking market, are located in Springfield and Cassville, 30 and 31 miles from Aurora, respectively, and it appears that no significant competition exists between them and Bank. In addition, it appears unlikely that any future competition would develop between Bank and Applicant's banking subsidiaries because of the distance involved, the presence of intervening banking offices, and Missouri's restrictive banking laws. Further, it appears unlikely that Applicant would enter the market *de novo* because the area is not considered at this time particularly attractive for such an alternative means of entry. On the basis of the record, this Reserve Bank concludes that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, its subsidiaries and Bank are satisfactory and, therefore, financial factors are consistent with approval. Affiliation with Applicant should enable Bank to offer expanded banking services, including agricultural loans and trust services. These factors, as they relate to the convenience and needs of the community to be served, lend some weight for approval of the application. It is the Reserve Bank's judgment that consummation of the proposed acquisition is in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth day following the effective date of this order or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board of Governors or by the Federal Reserve Bank of Kansas City, pursuant to delegated authority.

[SEAL] JOHN F. ZOELLNER,
Vice President.

APRIL 16, 1975.

[FR Doc.75-11089 Filed 4-28-75;8:45 am]

MIDLANTIC BANKS INC.

Order Approving Acquisition of Great Eastern Leasing Corp.

Midlantic Banks Inc., West Orange, New Jersey, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), to acquire through its subsidiary, Midlantic Commercial Corporation, all of the voting shares of Great Eastern Leasing Corporation, New York, New York ("Company"), a company that engages in the activity of full pay-out leasing and equipment financing.[1] Such activity has been determined by the Board to be closely related to banking (12 CFR 225.4(a)(6)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (40 FR 1571). The time for filing comments and views has expired, and the Board has considered all comments received in the light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant is the third largest banking organization in New Jersey with approximately 7 per cent of the total deposits in commercial banks in the State. Applicant controls eight banks with aggregate deposits of approximately $1.4 billion.[2] Company, organized in 1968, has total assets of $1.9 million.[3] Company's leasing activities involve to equal extents both direct and vendor-originated leases. Most of its direct leases involve printing presses and machine tools, while the vendor-originated leases are in the office machine field. Most of Company's leases are of equipment valued under $25,000. Company operates primarily in the Metropolitan New York area market, approximated by southeastern New York State, the northern Counties of New Jersey, and the southern Counties of Connecticut. Applicant also engages in leasing activity in the same market through a department of its lead bank, Midlantic National Bank and also through Midlantic Commercial Corporation, a subsidiary. Through Midlantic National Bank Applicant held approximately $6.5 million in leasing receivables. Midlantic Commerical Co. commenced operations *de novo* in August, 1974. Although some existing and future competition would therefore be eliminated as a result of this proposal, in view of the large number of competitors and the intensity of competition in the New York market, such a reduction in competition as would occur would not be significant.

There is no evidence in the record that consummation of the proposed transaction would result in undue concentration of resources, conflicts of interests, unsound banking practices, unfair competition, or other adverse effects. Furthermore, it appears that Company, as a subsidiary of Midatlantic Commercial Co., will be able to offer its present

[2] The relevant market is approximated by Lawrence County, the northern quarter of Barry County, and a small portion of northwestern Stone County.

[1] Non-lease equipment financing constitutes less than 10 per cent of Company's volume and is a method of financing the same types of equipment as that leased by Company.

[2] Banking data are as of June 30, 1974.

[3] Company data are as of December 31, 1973.

and future customers a wider range of financial services than it is currently providing.

Based upon the foregoing and other considerations reflected in the record, the Board has determined, in accordance with section 4(c)(8) of the Act, that consummation of this proposal can reasonably be expected to produce benefits to the public that outweigh possible adverse effects. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y (12 CFR 225.4(c)) and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of New York pursuant to authority delegated hereby.

By order of the Board of Governors,[4] effective April 18, 1975.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.75-11090 Filed 4-28-75;8:45 am]

FEDERAL TRADE COMMISSION

[Docket No. 8909]

XEROX CORP.

Consent Agreement With Analysis To Aid Public Comment

Hearing date: June 4, 1975.

Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34, 40 FR 15236, April 4, 1975), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited on or before June 16, 1975. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14), 40 FR 15236, April 4, 1975. Comments should be directed to:

Office of the Secretary
Federal Trade Commission
6th & Pennsylvania Ave, NW.
Washington, D.C. 20580.

The Commission will hold a public hearing beginning at 9:30 a.m., on Wednesday, June 4, 1975, in Room 532 of the Federal Trade Commission Building, devoted to the question of whether or not it should make final the consent order in this matter. Persons desiring to make oral presentations should notify the Secretary, Federal Trade Commission, Washington, D.C. 20580, on or before May 9, 1975. The Secretary will allocate available time among parties who have made a request to appear. Oral presentations should be confined to subject matter which cannot be suitably presented in written format. After 60 days, the Commission will again review the consent order in light of the hearing and comments received and will decide whether or not it should be made final.

[4] Voting for this action: Governors Bucher, Holland, Wallich, and Coldwell. Absent and not voting: Chairman Burns and Governors Mitchell and Sheehan.

XEROX CORPORATION

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The agreement herein, by and between Xerox Corporation, a corporation, by its duly authorized officer, the respondent in the above-capitioned proceeding, and its attorneys, and counsel for the Federal Trade Commission is entered into in accordance with the Commission's rule governing consent order procedure. In accordance therewith the parties hereby agree that:

1. Respondent Xerox Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its office and principal place of business located at High Ridge Park, in the City of Stamford, State of Connecticut.

2. Respondent has been served with a copy of the complaint issued by the Federal Trade Commission charging it with violations of section 5 of the Federal Trade Commission Act and has filed an answer to said complaint denying said charges. Subsequently, the Commission withdrew this matter from adjudication pursuant to § 2.34(d) of the Commission's rules, and the parties engaged in negotiations which resulted in this agreement. This agreement supersedes a prior Agreement Containing Consent Order to Cease and Desist dated October 5, 1974, which was rejected by the Commission.

3. Respondent admits all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. Respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

5. This agreement shall not become a part of the official record of this proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it will be placed on the public record for a period of 60 days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if, within 30 days after the 60 day period, comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate. The Commission may, at any time pending final acceptance of this order, require hearings on the relief requirements provided by this order.

6. This agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in the complaint.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34(b) of the Commission's rules, the Commission may, without further notice to the respondent, (1) issue its decision containing the following order in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and shall become final and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or this agreement may be used to vary or contradict the terms of the order.

8. Respondent has read the order contemplated hereby and understands that once this order has been issued, respondent will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

ORDER

I

It is ordered, That the following definitions shall apply in this order:

A. "XEROX" means respondent Xerox Corporation, its SUBSIDIARIES (except RANK XEROX and FUJI XEROX), successors and assigns and its directors, officers, employees, agents and representatives. "RANK XEROX" means Rank Xerox Limited, a corporation organized and existing under the laws of the United Kingdom. "FUJI XEROX" means Fuji Xerox Company Limited, a corporation organized and existing under the laws of Japan. "RANK XEROX" and "FUJI XEROX" each includes the SUBSIDIARIES, successors and assigns of said corporations and their directors, officers, employees, agents and representatives.

B. "PERSON" means any individual, partnership, firm, association, corporation or other legal or business entity [other than the Commission, XEROX, RANK XEROX, FUJI XEROX, The Rank Organisation Limited (so long as it is a party to a joint venture with XEROX relating to OFFICE COPIER PRODUCTS), Fuji Photo Film Co., Ltd. (so long as it is a party to a joint venture with XEROX or RANK XEROX relating to OFFICE COPIER PRODUCTS),

and any foreign government (or any entity whose ownership is controlled thereby)], their SUBSIDIARIES, successors and assigns, and directors, officers, agents and representatives.

C. "SUBSIDIARY" means a PERSON more than fifty percent (50%) or, at the option of the LICENSEE with respect to its SUBSIDIARIES, at least twenty percent (20%) of whose outstanding shares or stock, representing the right (other than as affected by events of default) to vote for the election of directors or other managing authority, are now or hereafter owned or controlled, directly or indirectly, by XEROX, RANK XEROX, FUJI XEROX or PERSON, as the case may be, but such PERSON shall be deemed to be a SUBSIDIARY only so long as such ownership or control exists.

D. "LICENSEE" means any PERSON licensed by XEROX, RANK XEROX and/or FUJI XEROX pursuant to the terms of Paragraph II of this order, including all AFFILIATES of such PERSON. AFFILIATE means (1) any PERSON and SUBSIDIARIES thereof, engaged in the development, manufacture, use, lease or sale of OFFICE COPIER PRODUCTS at least fifty percent (50%) or, at the option of the LICENSEE, at least twenty percent (20%) of whose outstanding shares or stock, representing the right (other than as affected by events of default) to vote for the election of directors or other managing authority, are now or hereafter owned or controlled, directly or indirectly, by the licensed PERSON; and (2) any PERSON and SUBSIDIARIES thereof, which now or hereafter own or control, directly or indirectly, more than fifty percent (50%) or, at the option of the LICENSEE, at least twenty percent (20%) of the outstanding shares or stock, representing the right (other than as affected by events of default) to vote for the election of directors or other managing authority of the licensed PERSON, but only so long as such ownership or control exists.

E. "PATENT" means some, all or any portion of all patents (including utility models, design patents, certificates of addition and the like), and all patents resulting from continuations-in-part, divisions, renewals, reissues and extensions based on said patents or the applications therefor, but only insofar as it relates to an OFFICE COPIER PRODUCT.

F. "ISSUED" means published and either issued, granted, sealed or registered.

G. "CORRESPONDING PATENTS" means two or more PATENTS, each of which has ISSUED in a different country, is entitled to the same priority date (or could have been if timely filed) and is based upon the same conception and reduction to practice.

H. "PRESENT PATENT" means a United States or FOREIGN PATENT ISSUED on or before the date of issuance of this order and all CORRESPONDING PATENTS regardless of the date they are ISSUED.

I. "FUTURE PATENT" means a United States or FOREIGN PATENT other than a PRESENT PATENT ISSUED on a patent application having an effective filing date prior to three years after the date of issuance of this order or ISSUED during the six years following the date of issuance of this order, and all CORRESPONDING PATENTS, regardless of the date they are ISSUED.

J. "FOREIGN PATENT" means a PATENT ISSUED by a country other than the United States.

K. "XEROX PATENT" means a PATENT which is owned or controlled by XEROX, RANK XEROX or FUJI XEROX or under which one or more of them has the power to grant licenses or sublicenses to PERSONS. XEROX' power to comply with this order with respect to PATENTS owned or controlled by RANK XEROX or FUJI XEROX, or under which they have the power to grant licenses or sublicenses, is confirmed in the undertakings of RANK XEROX and FUJI XEROX which have been submitted to the Commission.

L. "ORDER PATENT" means a PRESENT or FUTURE XEROX PATENT except one licensed pursuant to Paragraph X(b) of this order.

M. A "PATENT OF THE LICENSEE" means a PATENT which is owned or controlled by a LICENSEE, or a PATENT under which such LICENSEE has the power to grant licenses or sublicenses.

N. "IMPROVEMENT PATENT" means a PATENT or an invention which, if practiced, would infringe a licensed PATENT and which IMPROVEMENT PATENT is owned or controlled by the licensee of such PATENT or is one under which such licensee has the power to grant licenses or sublicenses. Determination of what is an IMPROVEMENT PATENT shall be made by reference to a licensed United States PATENT, if any, or if there is no such United States PATENT, by reference to the licensed FOREIGN PATENT.

O. "OFFICE COPIER" means a machine for the convenient reproduction of an original document and accessories physically attached to such machine. The term "OFFICE COPIER" refers to all xerographic and non-xerographic office copiers, including but not limited to polychromatic color office copiers, high speed office copiers (such as the Xerox Model 9200), hybrid offset office copiers (such as the AMCD) and office copiers adapted to receive micro input as well as hard copy input, but does not include specialized use copiers (such as engineering drawing and microfilm copiers), or offset, stencil, or spirit duplicator machines.

P. "OFFICE COPIER PRODUCT" means an OFFICE COPIER and parts, components, raw materials and consumable supplies for use therein, including but not limited to photosensitive elements, refined selenium, metal alloys for machine parts, toner, developer, paper, and containers (such as toner cartridges) for consumable supplies.

Q. "ROYALTY-BEARING PRODUCT" means (1) an OFFICE COPIER, (2) toner, developer, paper, and similar consumable supplies, (3) containers (such as toner cartridges) for consumable supplies and (4) photosensitive elements, any of which are covered by a licensed PATENT other than one which is royalty-free.

R. "NET REVENUES" shall mean the total revenues received by the licensee from the lease or sale, as the case may be, of a ROYALTY-BEARING PRODUCT, or in the case of a lease of a ROYALTY-BEARING PRODUCT, at the option of the licensee, the published selling price for such ROYALTY-BEARING PRODUCT. Any of the following items, or any comparable items, may be deducted from the aforesaid total revenues or published selling price when they are separately stated on the invoice:

(a) Packing costs.

(b) Actual transportation and insurance costs from place of shipment to point of installation.

(c) Excise, sales, use and property taxes.

(d) Import and export duties and taxes.

(e) The fair market value of replacement parts and components which are not covered by a licensed PATENT.

(f) The fair market value of consumable supplies which are not covered by a licensed PATENT whether or not they are in a licensed container.

(g) Actual credit to customers on account of any ROYALTY-BEARING PRODUCT which is not accepted by the customer.

(h) Costs of servicing or repairing the ROYALTY-BEARING PRODUCT excluding the costs of parts or components covered by a licensed PATENT.

To the extent that the amounts charged for the above items can be verified by referring to separate bona fide offers of such services or products, or to separate documents as in the case of taxes or duties, such amounts need not appear on the invoice.

S. "POLYCHROMATIC COLOR OFFICE COPIER PRODUCT" means an OFFICE COPIER PRODUCT specially adapted to produce multicolor copy.

T. "KNOW-HOW" means all written materials used by Xerox Corporation in manufacturing, refurbishing, reconditioning, retrofitting and servicing its OFFICE COPIER PRODUCTS which Xerox Corporaton is not specifically prohibited by a legally enforceable obligation from disclosing, including but not limited to blueprints, drawings, formulae, manuals, process descriptions, production methods, specifications, quality control and test standards and computer programs.

U. "COMMERCIALLY AVAILABLE" means generally available for immediate sale or lease to consumers in an area at least as large as an area served by at least one sales branch of the seller or lessor and on publicly announced terms.

V. "IBM" means International Business Machines Corporation, a corporation organized and existing under the

laws of the State of New York, and its SUBSIDIARIES, successors and assigns, and directors, officers, employees, agents and representatives.

W. "UNITED STATES" means the United States of America, its territories or possessions, the District of Columbia, and the Commonwealth of Puerto Rico.

II

It is further ordered, That XEROX shall forthwith grant or cause to be granted to any PERSON making written application to XEROX at any time under this order a non-exclusive license for the full unexpired term under any, some, or all ORDER PATENTS, to make, have made, use or vend any, some or all of the following: (1) OFFICE COPIERS (including the right to have made parts, components and raw materials for use therein), (2) toner, developer and paper, (3) toner, developer, paper and similar consumable supplies which may be used in future OFFICE COPIERS, (4) containers (such as toner cartridges) for consumable supplies, and (5) photosensitive elements. However, at XEROX' option exercised on a non-discriminatory basis, the effective date of licenses pertaining to POLYCHROMATIC COLOR OFFICE COPIER PRODUCTS may be up to three years from the date of issuance of this order for PRESENT PATENTS and three years from the date the PATENT is ISSUED for FUTURE PATENTS. Nothing in any license granted pursuant to the terms of this order shall be deemed to prohibit a LICENSEE from using a licensed OFFICE COPIER in conjunction with any other device for use in addition to the convenient reproduction of an original document.

III

XEROX, RANK XEROX and FUJI XEROX shall agree not to sue any LICENSEE, or customers or suppliers of the LICENSEE, for PATENT infringement or royalties with respect to any OFFICE COPIER, photosensitive element, toner, developer, paper or container (such as toner cartridges) for consumable supplies manufactured by or for the LICENSEE prior to the date of issuance of this order, or to maintain any such suit.

IV

It is further ordered, That no license of an ORDER PATENT granted pursuant to the terms of this order shall contain or be conditioned upon any restriction, except as hereinafter provided:

A. The LICENSEE may, at his option, designate up to a total of three ORDER PATENTS which shall be licensed or sublicensed royalty-free; provided, however, that, in each country, the LICENSEE may substitute another ORDER PATENT as royalty-free for any ORDER PATENT previously designated as royalty-free which the LICENSEE has discontinued using in that country. On ORDER PATENTS other than the three designated as royalty-free by the LICENSEE, XEROX may, in its sole discretion, charge a royalty not to exceed ½% per PATENT up to a maximum accumulated royalty of 1½% of the LICENSEE'S NET REVENUES for each ROYALTY-BEARING PRODUCT which is manufactured, leased or sold by or for the LICENSEE. With respect to any ROYALTY-BEARING PRODUCT of the LICENSEE which the LICENSEE uses or consumes himself, the royalty shall be computed on the basis of the NET REVENUES that would have been received by the LICENSEE in an ordinary commercial transaction. The royalty shall be computed separately for each ROYALTY-BEARING PRODUCT on the basis of ORDER PATENTS subject to royalty which are used in such ROYALTY-BEARING PRODUCT. In no event shall more than three royalty-free PATENTS apply to any one ROYALTY-BEARING PRODUCT at any one time irrespective of the number of licenses granted by XEROX with respect to such ROYALTY-BEARING PRODUCT. For the purpose of this Paragraph IV A, a PATENT and all CORRESPONDING PATENTS in all countries shall count as one PATENT. The LICENSEE need not take a license under any CORRESPONDING PATENT.

B. XEROX may require that a LICENSEE agree not to sue XEROX, RANK XEROX or FUJI XEROX, or their customers or suppliers, for PATENT infringement or royalties with respect to any OFFICE COPIER, photosensitive element, toner, developer, paper or container (such as toner cartridges) for consumable supplies manufactured by or for them prior to the date of issuance of this order, or to maintain any such suit.

C. To the extent the LICENSEE has the power to grant licenses or sublicenses, XEROX may require the grant to XEROX, RANK XEROX and FUJI XEROX of a non-exclusive license for the full unexpired term under any, some, or all PATENTS OF THE LICENSEE to make, have made, use or vend any, some or all of the following: (a) OFFICE COPIERS (including the right to have made parts, components, and raw materials for use therein), (b) toner, developer, and paper, (c) toner, developer, paper, and similar consumable supplies which may be used in future OFFICE COPIERS, (d) containers (such as toner cartridges) for consumable supplies, and (e) photosensitive elements, as hereinafter provided in this Paragraph IV C.

(1) XEROX may (at any time) require the license of one PATENT OF THE LICENSEE to XEROX, RANK XEROX and FUJI XEROX for each XEROX PATENT licensed to the LICENSEE in excess of the first three ORDER PATENTS licensed to the LICENSEE but in so doing XEROX may not require the license of (a) a greater number of PRESENT PATENTS OF THE LICENSEE than the number of XEROX PRESENT PATENTS licensed to the LICENSEE, or (b) a greater number of FUTURE PATENTS OF THE LICENSEE than the number of XEROX FUTURE PATENTS licensed to the LICENSEE. Notwithstanding the foregoing, for purposes of determining how many PRESENT PATENTS or FUTURE PATENTS OF THE LICENSEE which XEROX, RANK XEROX and FUJI XEROX are entitled to license, the LICENSEE shall have the right, if exercised at the time of first receipt of a license from XEROX under Paragraph II of this order, to have the first three ORDER PATENTS licensed from XEROX count, at the LICENSEE'S option, as XEROX PRESENT PATENTS, or as XEROX FUTURE PATENTS or as any combination of XEROX PRESENT PATENTS and XEROX FUTURE PATENTS, irrespective of the actual character of such ORDER PATENTS. For the purpose of determining the number of PATENTS under this Paragraph IV C(1), (a) a PATENT and all CORRESPONDING PATENTS in all countries shall count as one PATENT, and (b) the substitution of a previously unlicensed ORDER PATENT shall count as an additional PATENT unless the PATENT for which substitution is made was dedicated, revoked, disclaimed, or has expired or lapsed, or was held invalid or unenforceable. XEROX, RANK XEROX and FUJI XEROX need not take a license under any CORRESPONDING PATENT. A LICENSEE shall have no obligation to grant a license to XEROX, RANK XEROX or FUJI XEROX in any country in which, by reason of governmental action, XEROX has been prevented from granting or causing to be granted a PATENT license requested pursuant to this order. XEROX shall have no obligation to grant licenses in any country in which, by reason of governmental action, the LICENSEE is prevented from granting licenses ot XEROX, RANK XEROX or FUJI XEROX pursuant to the terms of this Paragraph IV C(1).

(2) The license of PRESENT PATENTS OF THE LICENSEE shall not become effective until four years after the date of issuance of this order or four years after an OFFICE COPIER PRODUCT (of the LICENSEE or its licensee) using an invention covered by the PATENT first becomes COMMERCIALLY AVAILABLE, whichever is later. The license of FUTURE PATENTS OF THE LICENSEE shall not become effective until four years after the date the FUTURE PATENT OF THE LICENSEE is ISSUED or four years after an OFFICE COPIER PRODUCT (of the LICENSEE or its licensee) using an invention covered by the PATENT first becomes COMMERCIALLY AVAILABLE, whichever is later. This Paragraph IV C(2) shall not apply to IBM, except that IBM may require that the effective date of licenses pertaining to POLYCHROMATIC COLOR OFFICE COPIER PRODUCTS not become effective for up to three years from the date of issuance of this order for PRESENT PATENTS and three years from the date IBM's FUTURE PATENTS are ISSUED. With respect to CORRESPONDING FUTURE PATENTS the date such PATENTS are ISSUED shall be the date that the first such CORRESPONDING FUTURE PATENT is ISSUED.

(3) XEROX may (at any time) require the immediate license to XEROX, RANK XEROX and FUJI XEROX of any of the PRESENT or FUTURE PATENTS OF THE LICENSEE (a) which would be infringed by a XEROX, RANK XEROX or FUJI XEROX OFFICE COPIER manufactured by any of them following the date of issuance of this order if the invention covered by the PATENT is the same as that embodied in an OFFICE COPIER manufactured by any of them prior to the date of issuance of this order, or (b) which would be infringed by a XEROX, RANK XEROX or FUJI XEROX OFFICE COPIER PRODUCT which any of them makes COMMERCIALLY AVAILABLE during the six years following the date of issuance of this order if the invention of the PATENT was embodied in a device which, as of the first publication or public use anywhere in the world of the invention covered by the PATENT OF THE LICENSEE or application therefor (i) actually had been built and incorporated in an engineering model or prototype model of the OFFICE COPIER by XEROX, RANK XEROX or FUJI XEROX and (ii) was part of a XEROX, RANK XEROX or FUJI XEROX funded product program. As used in this Paragraph IV C(3), "engineering model" means the first complete assembly of all the sub-assemblies of the OFFICE COPIER; and "prototype model" means the product development stage which follows the engineering model, if any. Licenses granted pursuant to this Paragraph IV C(3) shall not be subject to the provisions of Paragraph IV C(1) (except that they shall count for the LICENSEE as PATENTS licensed to XEROX, RANK XEROX and FUJI XEROX if and when they become entitled to a license pursuant to that Paragraph) or Paragraph IV C(2), but shall be subject to all other provisions of this order. The burden of establishing the right to a license under this Paragraph IV C(3) shall be on XEROX.

(4) XEROX may require a LICENSEE to grant to XEROX, RANK XEROX, and FUJI XEROX a non-exclusive license under all IMPROVEMENT PATENTS on XEROX PATENTS licensed to the LICENSEE. Such licenses shall not be subject to the provisions of Paragraph IV C(1) (except that IMPROVEMENT PATENTS OF THE LICENSEE shall count for the LICENSEE as PATENTS licensed to XEROX, RANK XEROX, and FUJI XEROX if and when they become entitled to a license pursuant to that Paragraph) but shall be subject to all other provisions of this order.

(5) XEROX shall grant to the LICENSEE a non-exclusive license under all XEROX IMPROVEMENT PATENTS on PATENTS licensed to XEROX. Such licenses shall be subject to all the provisions of this order except that they shall not count for XEROX as PATENTS licensed by XEROX, RANK XEROX, and FUJI XEROX for purposes of Paragraph IV C(1).

(6) The LICENSEE may charge XEROX, RANK XEROX and FUJI XEROX a reasonable royalty for PATENTS licensed to any or all of them pursuant to this order, computed on the basis of the NET REVENUES of XEROX, RANK XEROX, and FUJI XEROX for each ROYALTY-BEARING PRODUCT which they manufactured, leased or sold. With respect to any ROYALTY-BEARING PRODUCT of XEROX, RANK XEROX and FUJI XEROX, which they use or consume themselves, the royalty shall be computed on the basis of the NET REVENUES that would have been received in an ordinary commercial transaction. The royalty shall be computed separately for each ROYALTY-BEARING PRODUCT on the basis of the PATENTS which are used in such ROYALTY-BEARING PRODUCT.

(7) XEROX, RANK XEROX, and FUJI XEROX may require that they be permitted to sublicense any PERSON in which they own, directly or indirectly, 50 percent or less, but not less than 20 percent of the voting stock if such PERSON makes its PRESENT and FUTURE PATENTS available for licensing pursuant to Paragraph II of this order. All such PERSONS shall be identified to anyone making written request, and a list of all such PERSONS current as of the date of issuance of this order shall be filed on the public record of the Commission. Any changes in said list shall be filed with the Commission within 30 days after they occur.

(8) A license to XEROX pursuant to this Paragraph IV C shall contain the provisions specified in Paragraphs IV H and IV I of this order and may contain the provisions specified in Paragraphs IV D, IV E, IV F, IV G, and IV J of this order.

(9) If XEROX grants a license under ORDER PATENTS either pursuant to the terms of Paragraph II of this order or otherwise, the license agreement shall contain the irrevocable convenant of the licensee (a) to license such of its PATENTS as are licensed to XEROX on reasonable terms and conditions to any other PERSON who is entitled to a license from XEROX pursuant to Paragraph II of this order, provided (i) that such license need not be effective prior to the effective date of the licensee's license to XEROX and (ii) that the licensee may require the license to itself of its licensee's PATENTS or IMPROVEMENT PATENTS; (b) to submit the reasonableness of the terms and conditions of its license to such PERSON to arbitration as provided in Paragraph VIII of this order if so requested by such PERSON; and (c) if XEROX' licensee is domiciled in the UNITED STATES to submit papers to the Commission and permit the Commission to suspend the arbitration and resolve dispute as provided in Paragraph VIII C of this order. Within 60 days following execution of a license agreement subject to this Paragraph IV C(9), XEROX shall submit to arbitration and resolve the dispute as provided in Paragraph VIII C of this order. Within 60 days following execution of a license agreement subject to this Paragraph IV C(9), XEROX shall submit to the Commission a copy thereof in camera.

D. Reasonable provisions may be made for the retention of books and records and for periodic royalty reports by the licensee to the Manager of Patent Licensing of the licensor, and for inspection of such books and records by an independent auditor or any other person reasonably acceptable to both the licensor and the licensee who shall report to said Manager only the amount of the royalty due and payable. The Manager of Patent Licensing of the licensor shall not disclose the content of said periodic royalty reports to any director, officer, employee, agent or representative of the licensor other than the members of his staff and employees necessarily involved in recording and depositing checks in a routine manner, who shall be similarly bound, unless the royalty owed is not timely paid. In the event that the licensor does not have a Manager of Patent Licensing, a mutually agreeable employee of the licensor shall be designated in his stead.

E. Notwithstanding any other provision of this order, any party taking a sublicense under the terms of this order may be required to reimburse the sublicensor for any payments it is legally required to make and does make to the original licensor on account of activities of the sublicensee under any sublicense granted pursuant hereto.

F. Reasonable provisions may be made for cancellation of the license granted to the licensee upon failure of the licensee to make the reports, pay the royalties, or permit the inspection of his books and records as hereinbefore provided, and, upon a wrongful act of the LICENSEE respecting the restrictions on use or disclosure of KNOW-HOW contained in Paragraph VII of this order, for XEROX to apply to the Commission for leave to cancel said license, in which event the decision of the Commission shall be final and non-appealable by either XEROX or the LICENSEE.

G. The license may be non-transferable.

H. The license must provide that the licensee may cancel the license in whole or as to any specified PATENTS at any time by giving 30 days notice in writing to the licensor; however, the licensor shall have the option to continue in effect any right granted to the licensor pursuant to Paragraph IV C of this order.

I. The license must provide for the arbitration specified in Paragraph VIII of this order and for suspension thereof pursuant to Paragraph VIII C of this order.

J. In granting a license pursuant to Paragraph II of this order, there shall be no discrimination by XEROX, RANK XEROX, FUJI XEROX or any PERSON in the royalty charged as among royalty-paying LICENSEES who procure the same rights under the same

PATENTS; but nothing herein contained shall prevent XEROX, RANK XEROX FUJI XEROX or any PERSON from negotiating non-exclusive licenses and cross-licenses outside the terms (except Paragraph IV C(9) of this order) of this order with anyone who so elects.

V

It is further ordered, That nothing herein shall be deemed to prevent any LICENSEE or applicant for a license from attacking in any proceeding or controversy the validity, scope or enforceability of any PRESENT or FUTURE PATENT; nor shall this order be construed as imputing any validity, enforceability or value to any such PATENT.

VI

It is further ordered, That XEROX shall allow each PERSON who is a licensee of a XEROX PATENT on the date of issuance of this order to obtain a license pursuant to the terms of this order; however, XEROX, RANK XEROX and FUGI XEROX shall have the right to continue in effect any industrial property rights under the terms previously granted to XEROX, RANK XEROX or FUJI XEROX by the licensee, and such licensee shall have the right to continue in effect any industrial property rights under the terms previously granted to the licensee by XEROX, RANK XEROX or FUJI XEROX.

VII

It is further ordered, That: A. During the period ending five years after the date of issuance of this order, XEROX shall make available to LICENSEES of United States ORDER PATENTS under a license pursuant to the terms of this order who make written application therefor all KNOW-HOW (1) in existence on the date of issuance of this order or (2) made available to any other UNITED STATES manufacturer (except a supplier to XEROX) or UNITED STATES marketer of OFFICE COPIER PRODUCTS for use in connection with such PRODUCTS during the five year period. The delivery of the KNOW-HOW requested shall begin within 30 days and shall be completed within 120 days after the initial application therefor is received by XEROX; the response to subsequent requests shall be completed within a reasonable period of time. Such KNOW-HOW shall be of such a nature as to enable one skilled in manufacturing electro-mechanical office machinery and in the technologies embodied in OFFICE COPIER PRODUCTS or comparable technologies to manufacture, refurbish, recondition and service Xerox Corporation's OFFICE COPIER PRODUCTS. Upon written application, XEROX shall provide written clarification respecting such KNOW-HOW where such clarification is reasonably necessary. XEROX may make a reasonable charge for the cost of collecting and duplicating KNOW-HOW which it discloses and for the time spent in clarification. At the option of such LICENSEE, XEROX shall disclose KNOW-HOW pertaining to photosensitive elements, supplies, raw materials and particular OFFICE COPIER models and shall limit its charge to such KNOW-HOW. XEROX may require the LICENSEE to agree that all KNOW-HOW disclosed to the LICENSEE by XEROX shall be considered a XEROX trade secret and to undertake, in good faith, to use the KNOW-HOW only in connection with the manufacture in the UNITED STATES of OFFICE COPIER PRODUCTS by or for the LICENSEE and not to disclose or permit the disclosure of the KNOW-HOW to anyone other than a supplier who is or will be manufacturing in the UNITED STATES and who enters into a similar agreement and undertaking respecting disclosure and use, unless the LICENSEE can establish that such KNOW-HOW (1) was previously known to the LICENSEE prior to the disclosure by XEROX, or (2) is or becomes part of the public domain through no wrongful act of LICENSEE, or (3) is subsequently otherwise legally acquired by LICENSEE, or (4) was or is disclosed by XEROX to third parties on a non-confidential basis.

B. Commencing 120 days after the date of issuance of this order XEROX shall make available to KNOW-HOW licensees a list of the PERSONS whose KNOW-HOW XEROX claims to be prohibited from disclosing. Such list shall be subject to the restrictions on use and disclosure of KNOW-HOW provided in this Paragraph VII. XEROX need not make KNOW-HOW available to IBM.

VIII

It is further ordered, That: A. Upon receipt of a written application for a PATENT license or for a PATENT license and disclosure of KNOW-HOW under the terms of this order, XEROX shall advise the applicant in writing of the terms of such license and/or KNOW-HOW disclosure. If a dispute arises between XEROX and a LICENSEE or applicant regarding their respective rights under this order (except where certain matters are specifically referable to the Commission as provided in Paragraph IV F of this order), and if the parties to the dispute are unable to resolve it within 90 days after the existence of such dispute is communicated in writing to XEROX or to the LICENSEE or applicant, the dispute shall be determined by arbitration pursuant to this Paragraph VIII. Notwithstanding the provisions of Paragraph V of this order, no dispute between XEROX and a LICENSEE or applicant with respect to the validity, enforceability, infringement or scope of any PATENT shall be subject to arbitration pursuant to this order.

B. Unless otherwise agreed to by the parties, arbitration shall be held at a location in the UNITED STATES designated by the LICENSEE or applicant and in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The award of the arbitrator shall be final and binding on both parties. The arbitrator shall, upon a proper showing, issue protective orders and/or receive evidence in camera in the same manner as an Administrative Law Judge of the Federal Trade Commission.

C. Within 10 days after the initiation of arbitration, XEROX shall notify the Commission of the parties to the arbitration, the name of the arbitrator, and the nature of the dispute. XEROX shall notify the Commission of the dates of arbitration hearings and other arbitration proceedings, if any, as soon as possible. Copies of all papers in the nature of pleadings shall be served upon the Commission, and the Commission or its designee shall have the right to attend any arbitration proceeding. The Commission may, in its sole discretion, at any time before evidence has been submitted, suspend the provisions of this Paragraph VIII respecting arbitration and itself resolve any or all disputes subject thereto. The Commission will not assert any claim that XEROX has violated this order with respect to the subject matter of the arbitration where XEROX has complied with the award of the arbitrator.

D. Pending the completion of any negotiation, arbitration or Commission action respecting a dispute subject to this Paragraph VIII, XEROX and the applicant shall enter into a license, and XEROX shall make disclosure of KNOW-HOW, pursuant to the terms of this order with respect to the matters not in dispute. Upon conclusion of any negotiation, arbitration or Commission action, the disputed license or KNOW-HOW disclosure may provide for such adjustments as the parties agree to or as the arbitrator or Commission, as the case may be, deems appropriate.

IX

It is further ordered, That for the period ending six years after the date of issuance of this order, XEROX shall make available (a) English language translations of all ORDER PATENTS issued after the date of issuance of this order to XEROX, RANK XEROX, and FUJI XEROX by France, The Federal Republic of Germany, Japan, and The Netherlands, and (b) copies of all English language CORRESPONDING PATENTS at a reasonable charge not to exceed the cost of reproduction and, if the translation is made at the instance of the requesting PERSON, the cost of translation.

X

It is further ordered, That for the period ending 10 years after the date of issuance of this order, XEROX shall not, directly or indirectly, acquire from any PERSON (including The Rank Organisation Limited and Fuji Photo Film Co., Ltd.) any exclusive rights, whether by license or otherwise to any PATENTS or know-how for use in OFFICE COPIER PRODUCTS except those (a) resulting from the work of XEROX, RANK XEROX, or FUJI XEROX employees, XEROX, RANK XEROX OR FUJI XEROX consultants, or research organizations doing sponsored research for XEROX, RANK XEROX or FUJI XEROX, or (b) under which XEROX grants or causes to be granted to any

PERSON making written application a non-exclusive, royalty-free, unrestricted license to make, have made, use or vend OFFICE COPIER PRODUCTS under such PATENT or know-how. Any exclusive rights acquired by XEROX in accordance with part (a) of this Paragraph X shall be on such terms as will permit XEROX to comply with the licensing provisions of Paragraph II of this order. This Paragraph X shall not apply to any acquisition or exclusive license of a FOREIGN PATENT or of the right to use the know-how in a foreign country by RANK XEROX or FUJI XEROX.

XI

It is further ordered, That XEROX shall not dispose or permit the disposition of any PATENTS or rights thereunder so as to deprive it of the power to grant or cause to be granted the licenses required by this order.

XII

It is further ordered, That for the period ending 10 years after the date of issuance of this order XEROX shall not, directly or indirectly, acquire any interest in a PERSON (including The Rank Organisation Limited and Fuji Photo Film Co. Ltd.) engaged in the manufacture, sale, lease or development of OFFICE COPIERS, or toner, developer, paper or photosensitive elements used in OFFICE COPIERS or form a joint venture involving any such products with any such PERSON (except The Rank Organisation Limited or Fuji Photo Film Co. Ltd. so long as either is a party to a joint venture with XEROX or RANK XEROX relating to OFFICE COPIER PRODUCTS). This Paragraph shall not apply (1) to the acquisition by XEROX of an interest in or joint venture with any PERSON in which at the time of the acquisition or joint venture it had a stock interest, other than a PERSON in which XEROX had such an interest by reason of an investment in employee funds such as pension or retirement plans (XEROX shall promptly file with the Commission a list of the PERSONS in which it has a stock interest as of the date of issuance of this order and to which this exception is to apply. Said list shall be updated as part of the annual compliance reports required by Paragraph XIX of this order.), or (2) to any acquisition by RANK XEROX or FUJI XEROX of a PERSON not engaged in the manufacture, sale, lease or development of OFFICE COPIERS but who is engaged in the manufacture, sale, lease or development, solely outside of the UNITED STATES, of toner, developer, paper or photosensitive elements used in OFFICE COPIERS, or to the formation of a joint venture by RANK XEROX or FUJI XEROX involving any such products with any such PERSON, or (3) to a joint venture involving new capacity for the production of paper with a PERSON other than one engaged in the manufacture, sale, lease or development of OFFICE COPIERS, or toner, developer or photosensitive elements used in OFFICE COPIERS, or (4) to the acquisition by XEROX of an interest in any PERSON the sole purpose of which is an investment in employee funds such as pension or retirement plans. Such acquisitions, however, shall not be deemed immune or exempt from the provisions of the antitrust laws (including the Federal Trade Commission Act) by reason of anything contained in this order.

XIII

It is further ordered, That during the period ending 10 years after the date of issuance of this order, XEROX shall not, directly or indirectly, make contracts in the United States restricting employees working in its OFFICE COPIER PRODUCTS business from in the future working for any other PERSON, provided that XEROX may make contracts which prohibit the use or disclosure of trade secrets and confidential information as prohibited by XEROX' present form of "Proprietary Information and Conflict of Interest Agreement" which has been submitted to the Commission.

XIV

It is further ordered, That during the period commencing on a date not later than nine months after the date of issuance of this order and ending 5 years after said commencement date, XEROX shall not, directly or indirectly, utilize in the UNITED STATES any price plan for the sale or lease of an OFFICE COPIER which depends upon the customer purchasing or leasing one or more additional OFFICE COPIERS of a different model. Any minimum qualifying level for a pricing plan or price schedule respecting any OFFICE COPIER shall be based solely on volume, revenues, number of OFFICE COPIERS, or the like, of the same model.

XV

It is further ordered, That: A. During the period ending 10 years after the date of issuance of this order, XEROX shall, in addition to instructing its employees in the UNITED STATES not to comment on the quality of competitive toner or developer, place a notice in a location conspicuous to the key operator on each OFFICE COPIER sold or leased by it in the UNITED STATES stating the following: "Xerox Corporation manufactures and distributes toner and developer for use in this machine. Other suppliers may also provide toner and developer for this machine. It may be necessary to adjust the machine to accommodate toner or developer which is provided by either XEROX or any other supplier."

B. In the event that XEROX shall publish reasonable specifications for the toner and developer used in a particular machine, XEROX (1) may include the following additional statement in the aforementioned notice: "The toner and developer used in this machine must comply with specifications published by Xerox Corporation.", (2) shall promptly notify all suppliers of toner and developer, who request such notification, of any changes in such specifications, and shall promptly notify a supplier when his toner or developer does not comply with such specifications in a letter signed by an officer of XEROX, and (3) may not require suppliers of toner or developer for XEROX' OFFICE COPIERS to provide to XEROX' customers a certification that the toner or developer supplied by them meets such specifications.

C. XEROX shall promptly notify all suppliers of toner and developer, who request such notification, of changes in XEROX OFFICE COPIERS which may affect the useability of the toner and developer in such OFFICE COPIERS.

D. Nothing herein contained shall prevent XEROX from advising a customer, in a letter signed by an officer of XEROX, that a non-XEROX toner or developer is not useable in a particular XEROX OFFICE COPIER, provided that XEROX simultaneously advises the supplier of such toner or developer in a letter signed by an officer of XEROX, that (1) in the opinion of XEROX, the supplier's toner or developer is not useable in a particular OFFICE COPIER model, and (2) disputes regarding the useability of the toner and developer are subject to arbitration pursuant to this order. Disputes regarding the useability of non-XEROX toner and developer or the reasonableness of XEROX specifications shall be subject to arbitration in accordance with Paragraph VIII (b) and (c) of this order.

E. XEROX may not, directly or indirectly, require in the UNITED STATES that it be the sole supplier of toner or developer for leased or sold OFFICE COPIERS; however, it may impose such a requirement with respect to a new model during the six months from the date such model first becomes COMMERCIALLY AVAILABLE. For purposes of this Paragraph XV, "new model" includes collectively the basic OFFICE COPIER model and all subsequent models not embodying material variations in the xerographic processor thereof.

XVI

It is further ordered, That during the period ending 10 years after the date of issuance of this order, (1) XEROX shall not in the UNITED STATES take orders or announce that it will take orders for the sale or lease of an OFFICE COPIER more than three months prior to the time when it is reasonably expected to be COMMERCIALLY AVAILABLE, (2) XEROX shall not promote any new OFFICE COPIER in any area of the United States more than three months prior to the time that XEROX reasonably expects such new OFFICE COPIER to be first COMMERCIALLY AVAILABLE in that area except for national advertising which includes a statement that the model is available only in the areas where XEROX reasonably expects such model to be COMMERCIALLY AVAILABLE, and (3) at the time XEROX announces that it will take orders for the lease of an OFFICE COPIER in the United States, it shall also announce the selling price of such OFFICE COPIER.

XVII

It is further ordered, That within 30 days after the date of issuance of this order and annually thereafter until the expiration of all FUTURE PATENTS, XEROX shall submit for publication in the Official Gazette of the United States Patent Office a notice (1) identifying by number, title, date of issue and category of subject matter (to an extent acceptable to the Commission) all United States PATENTS which it is empowered to license together with all FOREIGN PATENTS based on the patent application from which each United States PATENT originates; (2) stating that XEROX shall grant licenses under (a) its ORDER PATENTS to make, have made, use and vend OFFICE COPIER PRODUCTS under the terms of this order, and (b) patents required to be licensed pursuant to the terms of Paragraph X of this order, if any; (3) stating that XEROX shall disclose KNOW-HOW to a licensee of its United States ORDER PATENTS for use in connection with the manufacture of OFFICE COPIER PRODUCTS in the UNITED STATES under the terms of this order; and (4) stating that a copy of this order and a list of PATENTS licensed to XEROX which are subject to the provisions of Paragraph II and IV C(9) of this order, if any, are available from XEROX upon written request. Beginning 30 days following the date of issuance of this order, and until the expiration of all XEROX FUTURE PATENTS, XEROX shall send a copy of this order and of the current edition of such notice to each person who inquires as to the availability of a license for OFFICE COPIER PRODUCTS, or to whom XEROX has offered such a license at any time after January 1, 1970.

XVIII

It is further ordered, That XEROX notify the Commission at least 30 days prior to any proposed change in the respondent, RANK XEROX or FUJI XEROX which may affect compliance obligations arising out of this order, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other such change.

XIX

It is further ordered, That XEROX shall file with the Commission reports, in writing, setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with this order. Said reports shall be filed 60 days and 180 days after the date of issuance of this order, and yearly thereafter on the anniversary date of the order during the period in which XEROX has obligations under this order, and shall contain such information and documents as are requested by the Bureau of Competition or the Commission relating to compliance with this order.

ANALYSIS OF CONSENT ORDER

APRIL 16, 1975.

The Commission has accepted a consent order in settlement of its complaint against Xerox Corporation. This order supersedes a prior Agreement Containing Consent Order to Cease and Desist dated October 5, 1974, which was rejected by the Commission on February 25, 1975.

The central purpose of this order is to eliminate the fundamental sources of Xerox's dominance of the multi-billion dollar office copier industry—its vast patent portfolio, its manufacturing know-how, and its Machine Utilization Plan (MUP) pricing. The present order contains significant changes from the previous order to more effectively accomplish this purpose.

The following is the Bureau of Competition's analysis and explanation of the terms of the consent order, including summaries of the significant differences between this order and the previous order. The most important changes are:

1. A flat five-year prohibition on Xerox utilizing any pricing plan which makes the price of one copier model dependent upon the sale or lease of another copier model. Thus, Xerox would be prohibited from continuing to lease copiers under MUP in which different Xerox copier models are leased together under a high overall qualifying minimum.

2. Xerox must forgive all past infringement liability owed by any person taking a license under the order.

3. Xerox must pay reasonable royalties for all patents Xerox licenses under the order, although the royalty it can collect for licensing of its own patents is still limited to ½ percent per patent up to a maximum of 1½ percent per product.

4. Xerox's right to require licensees to license to Xerox has been further restricted in the following manner:

(a) Licensees may license up to three Xerox patents without being required to license any patents to Xerox.

(b) Cross-licenses thereafter, if any, will be on a patent-for-patent basis.

(c) The provision requiring persons who are suppliers to licensees of office copier products to cross-license Xerox [Paragraph III B (8) of the previous order] has been deleted.

(d) Xerox's right to license patents of its licensees is conditioned upon the power of the licensees to grant licenses. Thus, licensees with exclusive licenses can obtain licenses from Xerox without being required to grant licenses to Xerox.

5. With limited exceptions, Xerox's cross-licenses from licensees will be effective only after the lapse of four years from the actual commercial availability of the licensee's product using the patent under which Xerox is to be licensed, or issuance of the patent, whichever is later.

In the following analysis of the proposed order, each paragraph of the order is set out in full text and then analyzed separately. Definitions in most cases are noted in connection with substantive sections where explanation is appropriate. To assist in comparing this order with the previous order, changes in paragraph numbers and additions of new paragraphs from the previous order have been noted in the analysis.

This analysis cannot be substituted for a careful reading of the proposed order. The order itself cannot be modified or otherwise affected by this analysis.

PARAGRAPH I—[DEFINITIONS]

TEXT

"It is ordered, That the following definitions shall apply in this order:

"A. 'XEROX' means respondent Xerox Corporation, its SUBSIDIARIES (except RANK XEROX and FUJI XEROX), successors and assigns and its directors, officers, employees, agents and representatives. 'RANK XEROX' means Rank Xerox Limited, a corporation organized and existing under the laws of the United Kingdom. 'FUJI XEROX' means Fuji Xerox Company Limited, a corporation organized and existing under the laws of Japan. 'RANK XEROX' and 'FUJI XEROX' each includes the SUBSIDIARIES, successors and assigns of said corporations and their directors, officers, employees, agents and representatives.

"B. 'PERSON' means any individual, partnership, firm, association, corporation or other legal or business entity [other than the Commission, XEROX, RANK XEROX, FUJI XEROX, The Rank Organisation Limited (so long as it is a party to a joint venture with XEROX relating to OFFICE COPIER PRODUCTS), Fuji Photo Film Co., Ltd. (so long as it is a party to a joint venture with XEROX or RANK XEROX relating to OFFICE COPIER PRODUCTS), and any foreign government (or any entity whose ownership is controlled thereby)], their SUBSIDIARIES, successors and assigns and directors, officers, agents and representatives.

"C. 'SUBSIDIARY' means a PERSON more than fifty percent (50%) or, at the option of the LICENSEE with respect to its SUBSIDIARIES, at least twenty percent (20%) of whose outstanding shares or stock, representing the right (other than as affected by events of default) to vote for the election of directors or other managing authority, are now or hereafter owned or controlled, directly or indirectly, by XEROX, RANK XEROX, FUJI XEROX or PERSON, as the case may be, but such PERSON shall be deemed to be a SUBSIDIARY only so long as such ownership or control exists.

"D. 'LICENSEE' means any PERSON licensed by XEROX, RANK XEROX and/or FUJI XEROX pursuant to the terms of Paragraph II of this order, including all AFFILIATES of such PERSON. AFFILIATE means (1) any PERSON and SUBSIDIARIES thereof, engaged in the development, manufacture, use, lease or sale of OFFICE COPIER PRODUCTS at least fifty percent (50%) or, at the option of the LICENSEE, at least twenty percent (20%) of whose oustanding shares or stock, representing the right (other than as affected by

events of default) to vote for the election of directors or other managing authority, are now or hereafter owned or controlled, directly or indirectly, by the licensed PERSON; and (2) any PERSON and SUBSIDIARIES thereof, which now or hereafter own or control, directly or indirectly, more than fifty percent (50%) or, at the option of the LICENSEE, at least twenty percent (20%) of the outstanding shares or stock, representing the right (other than as affected by events of default) to vote for the election of directors or other managing authority of the licensed PERSON, but only so long as such ownership or control exists."

ANALYSIS OF PARAGRAPHS I C AND I D

Paragraph I C (definition of subsidiary) and *Paragraph I D* (definition of licensee) have been changed so as to give licensees the option of obtaining licenses from Xerox for those subsidiaries or affiliates in which they own or control at least 20 percent of the stock. Thus, the licensee's right to obtain licenses for their subsidiaries and affiliates is the same as Xerox's. Also, for purposes of consistency, the word "person" was substituted in place of "corporation, company, partnership or other entity" in both Paragraph I C and Paragraph I D.

TEXT

"E. 'PATENT' means some, all or any portion of all patents (including utility models, design patents, certificates of addition and the like), and all patents resulting from continuations-in-part, divisions, renewals, reissues and extensions based on said patents or the applications therefor, but only insofar as it relates to an OFFICER COPIER PRODUCT.

"F. 'ISSUED' means published and either issued, granted, sealed or registered."

ANALYSIS OF PARAGRAPH I F [NEW]

Paragraph I F is a new definition which was added to reflect the fact that the term "issued patent" did not encompass patent procedures in some foreign countries where patents are not "issued," but, instead, are "published and either issued, granted, sealed or registered."

TEXT

"G. 'CORRESPONDING PATENTS' means two or more PATENTS, each of which has ISSUED in a different country, is entitled to the same priority date (or could have been if timely filed) and is based upon the same conception and reduction to practice."

ANALYSIS OF PARAGRAPH I G [NEW]

Paragraph I G is a new definition which was added to help resolve issues concerning the correspondence of a patent in one country with a patent in another country.

TEXT

"H. 'PRESENT PATENT' means a United States or FOREIGN PATENT ISSUED on or before the date of issuance of this order and all CORRESPONDING PATENTS regardless of the date they are ISSUED.

"I. 'FUTURE PATENT' means a United States or FOREIGN PATENT other than a PRESENT PATENT ISSUED on a patent application having an effective filing date prior to three years after the date of issuance of this order or ISSUED during the six years following the date of issuance of this order, and all CORRESPONDING PATENTS, regardless of the date they are ISSUED.

"J. 'FOREIGN PATENT' means a PATENT ISSUED by a country other than the United States.

"K. 'XEROX PATENT' means a PATENT which is owned or controlled by XEROX, RANK XEROX or FUJI XEROX or under which one or more of them has the power to grant licenses or sublicenses to PERSONS. XEROX' power to comply with this order with respect to PATENTS owned or controlled by RANK XEROX or FUJI XEROX, or under which they have the power to grant licenses or sublicenses, is confirmed in the undertakings of RANK XEROX and FUJI XEROX which have been submitted to the Commission.

"L. 'ORDER PATENT' means a PRESENT or FUTURE XEROX PATENT except one licensed pursuant to Paragraph X(b) of this order."

ANALYSIS OF PARAGRAPH I L [PREVIOUSLY PARAGRAPH I J]

Paragraph I L defines an order patent as a present or future Xerox patent, except an acquired patent licensed pursuant to Paragraph X(b) [previously Paragraph IX]. It has been made more precise by referring specifically to that portion of Paragraph X which refers to such acquisitions, i.e., Paragraph X(b).

TEXT

"M. A 'PATENT OF THE LICENSEE' means a PATENT which is owned or controlled by a LICENSEE, or a PATENT under which such LICENSEE has the power to grant licenses or sublicenses.

"N. 'IMPROVEMENT PATENT' means a PATENT on an invention which, if practiced, would infringe a licensed PATENT and which IMPROVEMENT PATENT is owned or controlled by the licensee of such PATENT or is one under which such licensee has the power to grant licenses or sublicenses. Determination of what is an IMPROVEMENT PATENT shall be made by reference to a licensed United States PATENT, if any, or if there is no such United States PATENT, by reference to the licensed FOREIGN PATENT."

ANALYSIS OF PARAGRAPH I N [PREVIOUSLY PARAGRAPH I L]

Paragraph I N has been clarified by having the determination of what is an improvement patent made by reference to United States patents, if any, or if there is no United States patent, by reference to the licensed foreign patent.

TEXT

"O. 'OFFICE COPIER' means a machine for the convenient reproduction of an original document and accessories physically attached to such machine. The term 'OFFICE COPIER' refers to all xerographic and non-xerographic office copiers, including but not limited to polychromatic color office copiers, high speed office copiers (such as the Xerox Model 9200), hybrid offset office copiers (such as the AMCD) and office copiers adapted to receive micro input as well as hard copy input, but does not include specialized use copiers (such as engineering drawing and microfilm copiers), or offset, stencil, or spirit duplicator machines.

"P. 'OFFICE COPIER PRODUCT' means an OFFICE COPIER and parts, components, raw materials and consumable supplies for use therein, including but not limited to photosensitive elements, refined selenium, metal alloys for machine parts, toner, developer, paper, and containers (such as toner cartridges) for consumable supplies.

"Q. 'ROYALTY-BEARING PRODUCT' means (1) an OFFICE COPIER, (2) toner, developer, paper, and similar consumable supplies, (3) containers (such as toner cartridges) for consumable supplies and (4) photosensitive elements, any of which are covered by a licensed PATENT other than one which is royalty-free.

"R. 'NET REVENUES' shall mean the total revenues received by the licensee from the lease or sale, as the case may be, of a ROYALTY-BEARING PRODUCT, or in the case of a lease of a ROYALTY-BEARING PRODUCT, at the option of the licensee, the published selling price for such ROYALTY-BEARING PRODUCT. Any of the following items, or any comparable items, may be deducted from the aforesaid total revenues or published selling price when they are separately stated on the invoice:

(a) Packing Costs.

(b) Actual transportation and insurance costs from place of shipment to point of installation.

(c) Excise, sales, use and property taxes.

(d) Import and export duties and taxes.

(e) The fair market value of replacement parts and components which are not covered by a licensed PATENT.

(f) The fair market value of consumable supplies which are not covered by a licensed PATENT whether or not they are in a licensed container.

(g) Actual credit to customers on account of any ROYALTY-BEARING PRODUCT which is not accepted by the customer.

(h) Costs of servicing or repairing the the ROYALTY-BEARING PRODUCT excluding the costs of parts or components covered by a licensed PATENT.

To the extent that the amounts charged for the above items can be verified by referring to separate *bona fide* offers of such services or products, or to separate

documents as in the case of taxes or duties, such amounts need not appear on the invoice.

"S. 'POLYCHROMATIC COLOR OFFICE COPIER PRODUCT' means an OFFICE COPIER PRODUCT specially adapted to produce multicolor copy.

"T. 'KNOW-HOW' means all written materials used by Xerox Corporation in manufacturing, refurbishing, reconditioning, retrofitting and servicing its OFFICE COPIER PRODUCTS which Xerox Corporation is not specifically prohibited by a legally enforceable obligation from disclosing, including but not limited to blueprints, drawings, formulae, manuals, process descriptions, production methods, specifications, quality control and test standards and computer programs."

ANALYSIS OF PARAGRAPH I T [PREVIOUSLY PARAGRAPH I R]

The definition of know-how has been clarified to include the know-how used in "retrofitting" and to include computer programs as part of the written materials used by Xerox.

TEXT

"U. 'COMMERCIALLY AVAILABLE' means generally available for immediate sale or lease to consumers in an area at least as large as an area served by at least one sales branch of the seller or lessor and on publicly announced terms.

"V. 'IBM' means International Business Machines Corporation, a corporation organized and existing under the laws of the State of New York, and its SUBSIDIARIES, successors and assigns, and directors, officers, employees, agents and representatives.

"W. 'UNITED STATES' means the United States of America, its territories or possessions, the District of Columbia, and the Commonwealth of Puerto Rico."

PARAGRAPH II—[MANDATORY LICENSING]

TEXT

"It is further ordered, That XEROX shall forthwith grant or cause to be granted to any PERSON making written application to XEROX at any time under this order a non-exclusive license for the full unexpired term under any, some or all ORDER PATENTS to make, have made, use or vend any, some or all of the following: (1) OFFICE COPIERS (including the right to have made parts, components and raw materials for use therein), (2) toner, developer, paper and similar consumable supplies which may be used in future OFFICE COPIERS, (3) containers (such as toner cartridges) for consumable supplies, and (4) photosensitive elements. However, at Xerox' option exercised on a non-discriminatory basis, the effective date of licenses pertaining to POLYCHROMATIC COLOR OFFICE COPIER PRODUCTS may be up to three years from the date of issuance of this order for PRESENT PATENTS and three years from the date the PATENT is ISSUED for FUTURE PATENTS. Nothing in any license granted pursuant to the terms of this order shall be deemed to prohibit a LICENSEE from using a licensed OFFICE COPIER in conjunction with any other device for use in addition to the convenient reproduction of an original document."

ANALYSIS OF PARAGRAPH II

A. *Subject Matter Scope of License*[1]. Xerox must license all patents[2] pertaining to office copiers, including non-xerographic copiers and high speed office copiers, such as the Model 9200. However, Xerox may license patents relating to color copiers on a non-discriminatory basis with a lag in the effective date of the license of up to three years from the date of the order for present patents, and three years from the date of issuance with respect to future patents. Color copying is new to the marketplace, is currently of limited use, and has an uncertain future.

The lag provision of the previous order has been modified to cover only color copier patents. Thus, all references to photoelectrophoretic office copiers, which were also subject to a lag in the previous order, have been deleted, including the definition of photoelectrophoresis. [Paragraph I P of the previous order]. Licensees will be able to license photoelectrophoretic patents for black-and-white copying without a lag.

The scope of Paragraph II has been modified by changing the definition of "office copier" [Paragraph I O, previously Paragraph I M] to include licenses to patents pertaining to office copiers adapted to receive micro input, as well as hard copy input, and to clarify that it includes licenses to hybrid-offset copiers, such as the AMCD. Also, Paragraph II of the order makes it clear that licensees may use a licensed office copier in conjunction with the use of other devices, even though the added device would give the copier a specialized use in addition to its office copier use.

The scope of Paragraph II (1) has been clarified to insure that licensees have the right, as part of their license agreement with Xerox, to have made parts, components and raw materials for use in their office copiers. Thus, Xerox licensees may have suppliers manufacture intermediate components and parts and raw materials used in the licensee's office copier.

The scope of Paragraph II (2) has been modified to make it clear that Xerox must license all patents to toner, developer and paper, and also to similar consumable supplies which may be used in future office copiers.

Paragraph II (3), a new provision, requires Xerox to license toner cartridges separately.

Finally, the word "replacement," which had modified "photosensitive elements" has been deleted in Paragraph II (4) [Previously Paragraph II (3)] so that manufacturers of photosensitive elements may obtain licenses for original equipment manufacturing. This also makes it clear that manufacturers of coated paper, which contains a consumable photoconductor, can obtain a separate license.

B. *Geographic Scope of the License.* The geographic scope of the consent order license is world-wide. Rank Xerox and Fuji Xerox have confirmed Xerox's power to grant world-wide licenses in separate undertakings which are contained in the public record of this proceeding.

C. *Time Period of the Licenses.* The order encompasses all existing patents, patents issued in the next six years, and patents issued on pending applications or applications filed within three years after the date of the order, no matter when the patent is actually issued. The license must be issued for the full unexpired term of the patent.

PARAGRAPH III—[IMMUNITY FROM SUIT FOR LICENSEES]

TEXT

"XEROX, RANK XEROX and FUJI XEROX shall agree not to sue any LICENSEE, or customers or suppliers of the LICENSEE, for PATENT infringement or royalties with respect to any OFFICE COPIER, photosensitive element, toner, developer, paper or container (such as toner cartridges) for consumable supplies manufactured by or for the LICENSEE prior to the date of issuance of this order, or to maintain any such suit."

ANALYSIS OF NEW PARAGRAPH III AND NEW PARAGRAPH IV B

Paragraph III requires Xerox, Rank Xerox and Fuji Xerox to give immunity from suit for past infringement respecting office copier products[3] to any person who becomes a Xerox licensee under the terms of the order. Paragraph IV B permits Xerox to condition its licenses on the agreement of licensees that they will give a similar immunity from suit to Xerox, Rank Xerox and Fuji Xerox.

The requirement that Xerox grant immunity for past infringement to any person who takes a license should assist competitors, since Xerox, Rank Xerox and Fuji have a number of pending infringement suits. In addition, the existence of Xerox's massive patent structure has had an in terrorem effect on many competitors which have been manufacturing office copiers without a license to Xerox patents. Pursuant to Paragraph IV B of the order, Xerox may require that reciprocal immunity for past infringement be granted to Xerox, Rank Xerox, or Fuji Xerox.

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[1] The order has been clarified so that the scope of the license granted or caused to be granted by Xerox is the same as the scope of the license, if any, granted by the licensee to Xerox, Rank Xerox and Fuji Xerox pursuant to Paragraph IV. The definition of office copier product [Paragraph I P previously Paragraph I N] and royalty-bearing product [Paragraph I Q previously Paragraph I O] have been changed. These paragraphs have also been changed to reflect the changes which have been made in Paragraph II.

[2] The definition of a "patent" is contained in Paragraph I E.

[3] The immunity from suit includes an agreement not to institute suits for past infringement or royalties, or to maintain any such suits.

PARAGRAPH IV—[RESTRICTIONS IN LICENSES]

TEXT

"IT IS FURTHER ORDERED that no license of an ORDER PATENT granted pursuant to the terms of this order shall contain or be conditioned upon any restriction, except as hereinafter provided:"

PARAGRAPH IV A—[ROYALTIES]

"The LICENSEE may, at his option, designate up to a total of three ORDER PATENTS which shall be licensed or sublicensed royalty-free; provided, however, that, in each country, the LICENSEE may substitute another ORDER PATENT as royalty-free for any ORDER PATENT previously designated as royalty-free which the LICENSEE has discontinued using in that country. On ORDER PATENTS other than the three designated as royalty-free by the LICENSEE, XEROX may, in its sole discretion, charge a royalty not to exceed ½% per PATENT up to a maximum accumulated royalty of 1½% of the LICENSEE'S NET REVENUES for each ROYALTY-BEARING PRODUCT which is manufactured, leased or sold by or for the LICENSEE. With respect to any ROYALTY-BEARING PRODUCT of the LICENSEE which the LICENSEE uses or consumes himself, the royalty shall be computed on the basis of the NET REVENUES that would have been received by the LICENSEE in an ordinary commercial transaction. The royalty shall be computed separately for each ROYALTY-BEARING PRODUCT on the basis of ORDER PATENTS subject to royalty which are used in such ROYALTY-BEARING PRODUCT. In no event shall more than three royalty-free PATENTS apply to any one ROYALTY-BEARING PRODUCT at any one time irrespective of the number of licenses granted by XEROX with respect to such ROYALTY-BEARING PRODUCT. For the purpose of this Paragraph IV A, a PATENT and all CORRESPONDING PATENTS in all countries shall count as one PATENT. The LICENSEE need not take a license under any CORRESPONDING PATENT."

ANALYSIS OF PARAGRAPH IV A—[PREVIOUSLY PARAGRAPH III A]

Paragraph IV A specifies the royalty arrangements permitted. Xerox must license royalty-free up to three patents designated by the licensee. The maximum royalty on patents in addition to the royalty-free patents, is ½% per patent up to 1½% of the licensee's net revenues for each office copier product.[4] Only three royalty-free patents may apply to any particular royalty-bearing product, so that various parties in a chain of distribution cannot cumulate their separate rights to royalty-free patents in order to obtain licensing rights to more than three royalty-free patents per office copier product.

The previous order was changed in the following manner:

1. Licensees pay royalties based on their net revenues.[5] Thus, licensee's revenues derived from non-patented items, such as service, freight, taxes, insurance, etc. have been excluded from the royalty base.

2. The fair market value of consumable supplies which are not covered by a licensed patent, whether or not included in a licensed container, is excluded from the royalty base.[6] Thus, for example, the value of toner in a toner cartridge would not be included in the royalty base.

3. Licensees who lease royalty bearing products have the option of having net revenues computed on the basis of either the published selling price of the royalty bearing product, or on the lease basis.[7] Since net revenues arising from lease transactions may be higher than those received from sale transactions because of the cost of financing lease transactions, the existence of this new option may result in licensees paying lower royalties than would have been possible under the previous order.

4. Licensees may purchase office copier products from other licensees. To insure that the result of such purchases do not cause a licensee to pay more than 1½% in royalties, there is a new provision that accumulated royalties may not exceed the 1½% maximum.

5. To make it clear that a licensee cannot be required to pay royalties on all corresponding patents, even though it believes some of the corresponding patents are invalid, the provision has been revised to state that a licensee need not take a license under any corresponding patent. A similar provision applicable to licenses by Xerox, Rank Xerox and Fuji Xerox has been inserted in IV C (1).

6. It has been made clear that licensees may obtain additional patent licenses at any time.

PARAGRAPH IV B—[IMMUNITY FROM SUIT FOR XEROX, RANK XEROX AND FUJI XEROX]

TEXT

"B. Xerox may require that a LICENSEE agree not to sue XEROX, RANK XEROX, or FUJI XEROX, or their customers or suppliers, for PATENT infringement or royalties with respect to any OFFICE COPIER, photosensitive element, toner, developer, paper or container (such as toner cartridges) for consumable supplies manufactured by or for them prior to the date of issuance of this order, or to maintain any such suit."

ANALYSIS OF PARAGRAPH IV B—[PREVIOUSLY PART OF PARAGRAPH III B (6)]

See pp. 15–16, supra.

PARAGRAPH IV C—[CROSS-LICENSING]

TEXT

"C. To the extent the LICENSEE has the power to grant licenses or sublicenses, XEROX may require the grant to XEROX, RANK XEROX and FUJI XEROX of a non-exclusive license for the full unexpired term under any, some or all PATENTS OF THE LICENSEE to make, have made, use or vend any, some or all of the following: (a) OFFICE COPIERS (including the right to have made parts, components, and raw materials for use therein), (b) toner, developer, paper, and similar consumable supplies which may be used in future OFFICE COPIERS, (c) containers (such as toner cartridges) for consumable supplies, and (d) photosensitive elements, as hereinafter provided in this Paragraph IV C."

ANALYSIS OF PARAGRAPH IV C—[PREVIOUSLY III B]

Paragraph IV C contains the provisions governing Xerox's ability to require cross-licensing. That right has been fenced in so that Xerox does not obtain an advantage over its competitors. First, licensees may license up to three Xerox patents without being required to license any patents to Xerox. To the extent that Xerox may obtain cross-licenses thereafter, it may do so only on a patent-for-patent basis. Second, Xerox's right to license patents is conditioned upon the licensee's power to grant licenses. Licensees who have issued exclusive licenses to others can obtain licenses from Xerox without being required to re-negotiate their other licenses, and thus they may obtain licenses from Xerox without a cross-licensing obligation. Third, the provision requiring office copier products suppliers of licensees to license to Xerox [Paragraph III B(8) of the previous order] has been deleted. Fourth, the order has a provision which provides that, with minor exceptions, competitors have a four-year period of exclusive use of a copier in the marketplace before a cross-license to Xerox becomes effective. Also, all patent licenses to Xerox are on a reasonable royalty basis. Fifth, the order eliminates the funnelling effect which would occur if Xerox were able to obtain access to patents not accessible to its competitors by requiring Xerox's licensees to agree to license others under all patents cross-licensed to Xerox. Patents licensed pursuant to this provision are licensed on a reasonable royalty basis. Sixth, Xerox may not require the cross-license of future patents if the licensee takes only present Xerox patents, and all cross-licensing is on a strictly patent-for-patent basis.

PARAGRAPH IV C(1)—[LIMITATION OR NUMBER OF PATENTS SUBJECT TO CROSS-LICENSE]

TEXT

"(1) XEROX may (at any time) require the license of one PATENT OF THE LICENSEE to XEROX, RANK XEROX and FUJI XEROX for each XEROX PATENT licensed to the LICENSEE in excess of the first three ORDER PATENTS licensed to the LICENSEE but in so doing XEROX may not require the license of (a) a greater number of PRESENT PATENTS OF THE LICENSEE than the number of XEROX

[4] "Office copier product" is defined in Paragraph I P [previously Paragraph I N].

[5] "Net revenues" is defined in Paragraph I R [new].

[6] Paragraph I R (f).

[7] Paragraph I R.

PRESENT PATENTS licensed to the LICENSEE, or (b) a greater number of FUTURE PATENTS OF THE LICENSEE than the number of XEROX FUTURE PATENTS licensed to the LICENSEE. NOTWITHSTANDING the foregoing, for purposes of determining how many PRESENT PATENTS or FUTURE PATENTS of the LICENSEE which XEROX, RANK XEROX or FUJI XEROX are entitled to license, the LICENSEE shall have the right, if exercised at the time of first receipt of a license from XEROX under Paragraph H of this order, to have the first three ORDER PATENTS licensed from XEROX count, at the LICENSEE's option, as XEROX PRESENT PATENTS, or as XEROX FUTURE PATENTS or as any combination of XEROX PRESENT PATENTS and XEROX FUTURE PATENTS, irrespective of the actual character of such ORDER PATENTS. For the purpose of determining the number of PATENTS under this Paragraph IV C(1), (a) a PATENT and all CORRESPONDING PATENTS in all countries shall count as one PATENT, and (b) the substitution of a previously unlicensed ORDER PATENT shall count as an additional PATENT unless the PATENT for which substitution is made was dedicated, revoked, disclaimed, or has expired or lapsed, or was held invalid or unenforceable. XEROX, RANK XEROX and FUJI XEROX need not take a license under any CORRESPONDING PATENT. A LICENSEE shall have no obligation to grant a license to XEROX, RANK XEROX or FUJI XEROX in any country in which, by reason of governmental action, XEROX has been prevented from granting or causing to be granted a PATENT license requested pursuant to this order. XEROX shall have no obligation to grant licenses in any country in which, by reason of governmental action, the LICENSEE is prevented from granting licenses to XEROX, RANK XEROX or FUJI XEROX pursuant to the terms of this Paragraph IV C(1)."

ANALYSIS OF PARAGRAPH IV C (1)—[PREVIOUSLY PARAGRAPH III B (1)]

Paragraph IV C(1) distinguishes between present and future patents.[8] It provides that Xerox may require the cross-license of present patents only if the licensee licenses present Xerox patents, and of future patents only if the licensee licenses future Xerox patents. However, the order has been modified to provide that the right of Xerox to obtain any patents of the licensee does not arise until after the licensee has licensed more than three Xerox patents. At the time of first obtaining a license from Xerox, the licensee has the option of applying the three patent exclusion to either Xerox present patents or Xerox future patents, or a combination of Xerox present and Xerox future patents. Thus, for example, a licensee licensing four Xerox patents (two of which are present and two of which are future) could, under the order, designate the Xerox patents licensed as three future patents which would then entitle Xerox to cross-license one present patent of the licensee, and no future patents of the licensee.

For the purposes of this part of the order, present patents and future patents are counted separately, so that no matter how many present patents are licensed, the licensee cannot be required to cross-license future patents; and no matter how many future patents are licensed, Xerox does not, by reason of such licenses, obtain access to present patents of the licensee. Within the separate groups of present patents and future patents, in addition to the three patent exclusion, Xerox may require access only to as many patents of the licensee as the licensee has licensed from Xerox. This is a change from the previous order which had provided that the license of four or more Xerox present patents entitled Xerox to license all of the licensee's present patents. A similar provision also applied to future patents. The result of changing this provision to licensing only on a patent-for-patent basis is to limit the number of patents for which Xerox is entitled to obtain a license.

The order has been clarified to provide that the substitution by the licensee of a previously unlicensed patent shall not count as an additional patent, if the patent for which substitution was made was dedicated, revoked, disclaimed, or has expired or lapsed, or was held invalid or unenforceable.

A further change from the previous order is the elimination of the obligation to license to Xerox, Rank Xerox or Fuji Xerox, in any country in which Xerox has been prevented, by reason of governmental action, from granting or causing to be granted a patent license requested pursuant to this order. A similar provision respecting the licensee's ability to grant cross-licenses also applies to Xerox's obligation to license or cause the granting of a license.

PARAGRAPH IV C (2)—[EFFECTIVE DATE OF CROSS-LICENSES TO XEROX DELAYED]

TEXT

"(2) The license of PRESENT PATENTS OF THE LICENSE shall not become effective until four years after the date of issuance of this order or four years after an OFFICE COPIER PRODUCT (of the LICENSEE or its licensee) using an invention covered by the PATENT first becomes COMMERCIALLY AVAILABLE, whichever is later. The license of FUTURE PATENTS OF THE LICENSEE shall not become effective until four years after the date the FUTURE PATENT OF THE LICENSEE is ISSUED or four years after an OFFICE COPIER PRODUCT (of the LICENSEE or its licensee) using an invention covered by the PATENT first becomes COMMERCIALLY AVAILABLE, whichever is later. This Paragraph IV C (2) shall not apply to IBM, except that IBM may require that the effective date of licenses pertaining to POLYCHROMATIC COLOR OFFICE COPIER PRODUCTS not become effective for up to three years from the date of issuance of this order for PRESENT PATENTS and three years from the date IBM's FUTURE PATENTS are ISSUED. With respect to CORRESPONDING FUTURE PATENTS the date such PATENTS are ISSUED shall be the date that the first such CORRESPONDING FUTURE PATENT is ISSUED."

ANALYSIS OF PARAGRAPH IV C(2)—[PREVIOUSLY PARAGRAPH III B(2)]

Paragraph IV C(2) provides that Xerox's license of a licensee's patents dates from the lapse of four years following the first commercial availability of the licensee's product using the patent under which Xerox is to be licensed, or issuance of the patent, whichever is later.[9] This is a change from the previous order in which the effective date of a license ran from the issuance of the patent. The consequence of the change will be to lengthen the period of time in which licensees have exclusive rights to their patents, since commerical use of a product embodying an invention usually occurs long after issuance of the patent covering the invention. A further change is the deletion from this paragraph of a phrase from the previous order which dated the lag period from the licensee's first infringement after the date of issuance of the order.

Paragraph IV C (2) assures the licensee of a lengthy period of time in which it can exploit the advantage of being the first firm to market a copier embodying the new development. The period of time will be at least four years from commercial availability, which itself may be some years following issuance of the patent embodying the invention in the office copier product. This period is generally the most valuable period of a patent, since it is in this period that exclusive use of a new development may enable a competitor to capture a large share of the market. This is particularly true in high technology industries, such as the office copier industry.

[8] A "present patent" is one issued on or before the date of the order [Paragraph I H of the order, previously Paragraph I F], and a "future patent" is one which is issued during the six years following the date of the order or which is issued on an application filed within the three years following the date of the order [Paragraph I J of the order, previously Paragraph I G]. Since patents are issued at different times in different countries, Paragraph I H provides that present patents include those issued anywhere before the date of the order and all corresponding patents, even if issued later; and Paragraph I H provides that future patents are those issued after the date of the order, and the patents, other than present patents, corresponding thereto.

[9] The lag provision is not applicable to IBM, except as to color copier products, for which IBM's lag is the same three-year period as is Xerox's.

PARAGRAPH IV C (3)—[CROSS-LICENSE RESPECTING PRODUCTS DEVELOPED BEFORE FIRST PUBLICATION OR PUBLIC USE OF LICENSEE'S PATENT]

TEXT

"(3) XEROX may (at any time) require the immediate license to XEROX, RANK XEROX and FUJI XEROX of any of the PRESENT or FUTURE PATENTS OF THE LICENSEE (a) which would be infringed by a XEROX, RANK XEROX or FUJI XEROX OFFICE COPIER manufactured by any of them following the date of issuance of this order if the invention covered by the PATENT is the same as that embodied in an OFFICE COPIER manufactured by any of them prior to the date of issuance of this order, or (b) which would be infringed by a XEROX, RANK XEROX or FUJI XEROX OFFICE COPIER PRODUCT which any of them makes COMMERCIALLY AVAILABLE during the six years following the date of issuance of this order if the invention of the PATENT was embodied in a device which, as of the first publication or public use anywhere in the world of the invention covered by the PATENT OF THE LICENSEE or application therefor (i) actually had been built and incorporated in an engineering model or prototype model of the OFFICE COPIER by XEROX, RANK XEROX or FUJI XEROX and (ii) was part of a XEROX, RANK XEROX or FUJI XEROX funded product program. As used in this Paragraph IV C (3), 'engineering model' means the first complete assembly of all the sub-assemblies of the OFFICE COPIER; and 'prototype model' means the product development stage which follows the engineering model, if any. Licenses granted pursuant to this Paragraph IV C (3) shall not be subject to the provisions of Paragraph IV C (1) (except that they shall count for the LICENSEE as PATENTS licensed to XEROX, RANK XEROX and FUJI XEROX if and when they become entitled to a license pursuant to that Paragraph) or Paragraph IV C (2), but shall be subject to all other provisions of this order. The burden of establishing the right to a license under this Paragraph IV C (3) shall be on XEROX."

ANALYSIS OF PARAGRAPH IV C (3)—[PREVIOUSLY PARAGRAPH III B (3)]

Paragraph IV C (3) enables Xerox to obtain cross-licenses of patented inventions made commercially available within six years after issuance of the order regardless of the number of patents licensed from Xerox, without a lag, if Xerox can show it had independently developed its invention before the first publication or first public use[10] anywhere of its licensee's patent on the same invention. This provision has been clarified to provide that it shall not apply to abandoned inventions and that its shall apply only when the device had actually been built and incorporated in an engineering model or prototype model of an office copier which is part of a funded Xerox product program. Another change is the requirement that patents licensed to Xerox pursuant to this provision shall count as patents licensed to Xerox pursuant to Paragraph IV C (1). [Previously Paragraph III B (1)]. The burden of proving entitlement to a license pursuant to this provision is on Xerox.

Paragraph IV C (3) also provides that if an existing office copier product of Xerox, Rank Xerox or Fuji Xerox embodies an invention covered by a patent of the licensee, Xerox may obtain an immediate cross-license at a reasonable royalty, regardless of the limitations of Paragraph IV C (1). This is a change from the previous order, which had granted Xerox an immunity from suit with respect to such products.[11]

PARAGRAPHS IV C (4) AND IV C (5)—[IMPROVEMENT PATENTS]

TEXT

"(4) XEROX may require a LICENSEE to grant to XEROX, RANK XEROX, and FUJI XEROX a non-exclusive license under all IMPROVEMENT PATENTS on XEROX PATENTS licensed to the LICENSEE. Such licenses shall not be subject to the provisions of Paragraph IV C (1) (except that IMPROVEMENT PATENTS OF THE LICENSEE shall count for the LICENSEE as PATENTS licensed to XEROX, RANK XEROX, and FUJI XEROX if and when they become entitled to a license pursuant to that Paragraph) but shall be subject to all other provisions of this order.

"(5) XEROX shall grant to the LICENSEE a non-exclusive license under all XEROX IMPROVEMENT PATENTS on PATENTS licensed to XEROX. Such licenses shall be subject to all the provisions of this order except that they shall not count for XEROX as PATENTS licensed by XEROX, RANK XEROX, and FUJI XEROX for purposes of Paragraph IV C (1)."

ANALYSIS OF PARAGRAPHS IV C (4) AND C (5)—[PREVIOUSLY PARAGRAPHS III B (4) AND III B (5)]

Paragraphs IV C (4) and C (5) provide that both Xerox and its licensees can obtain the license-back of improvement patents, regardless of when the improvement patent issues, even if the improvement patent is not applied for or issued within the time specified for present and future patents. In addition, Xerox may obtain the license-back of improvement patents even if, under Paragraph IV C (1), Xerox would not have the right to license the patent. However, unlike the previous order, improvement patents licensed to Xerox shall count as patents, if and when Xerox becomes entitled to a license, for purposes of Paragraph IV C (1). In contrast, licensees can obtain a license of improvement patents from Xerox without the license counting as a patent license which entitles Xerox to obtain a license from the licensee. This will further limit the obligation of a licensee to license its patents to Xerox. Paragraph IV C (4) also provides that the lag period applies to the license to Xerox of improvement patents based on licensed Xerox future patents, as well as on licensed present patents. This is a change from the previous order which had provided that the lag period applied only to the license of improvement patents on licensed present patents.

PARAGRAPH IV C (6)—[ROYALTIES PAYABLE BY XEROX FOR CROSS-LICENSES]

TEXT

"(6) The LICENSEE may charge XEROX, RANK XEROX and FUJI XEROX a reasonable royalty for PATENTS licensed to any or all of them pursuant to this order, computed on the basis of the NET REVENUES of XEROX, RANK XEROX, and FUJI XEROX for each ROYALTY-BEARING PRODUCT which they manufactured, leased or sold. With respect to any ROYALTY-BEARING PRODUCT of XEROX, RANK XEROX and FUJI XEROX, which they use or consume themselves, the royalty shall be computed on the basis of the NET REVENUES that would have been received in an ordinary commercial transaction. The royalty shall be computed separately for each ROYALTY-BEARING PRODUCT on the basis of the PATENTS which are used in such ROYALTY-BEARING PRODUCT."

ANALYSIS OF PARAGRAPH IV C (6)—[PREVIOUSLY PARAGRAPH III B (6)]

Paragraph IV C(6) provides that licensees may charge reasonable royalties on cross-licenses to Xerox on the same base as is required under Paragraph IV A for licenses by Xerox, except that Xerox is not entitled to any royalty-free licenses.

The requirement that Xerox pay reasonable royalties will have two salutary effects. First, it will discourage Xerox from taking cross-licenses since the cost might be quite high, and second, if Xerox does take a license, the licensee will obtain large sums of money from royalties based on Xerox's substantial sales.

PARAGRAPH IV C (7)—[CROSS-LICENSES TO BE MADE AVAILABLE FOR MINORITY SUBSIDIARIES]

TEXT

"(7) XEROX, RANK XEROX and FUJI XEROX may require that they be permitted to sublicense any PERSON in which they own, directly or indirectly, 50% or less, but not less than 20% of the voting stock if such PERSON makes its PRESENT and FUTURE PATENTS available for licensing pursuant to Paragraph II of this order. All such PERSONS shall be identified to anyone making written request, and a list of all such

[10] This provision was clarified to include "first public use" as well as "first publication."

[11] Paragraph IV B permits Xerox to condition the grant of an order license on the licensee's grant of an immunity to Xerox for past infringement, and Paragraph III requires Xerox to forgive all past infringement of licensees.

PERSONS current as of the date of issuance of this order shall be filed on the public record of the Commission. Any changes in said list shall be filed with the Commission within 30 days after they occur."

ANALYSIS OF PARAGRAPH IV C(7)—[PREVIOUSLY PARAGRAPH III B(7)]

Paragraph IV C(7) enables Xerox to pass the benefit of a cross-license to subsidiaries in which it has at least a 20% interest. Modification of the definitions of "person" (Paragraph I B), "subsidiary" (Paragraph I C), and "licensee" (Paragraph I D), gives Xerox's licensees the option of passing the benefit of licenses from Xerox to subsidiaries and affiliates in which they have at least a 20% interest. In addition, the provision provides that Xerox make public a list of all such "persons" and notify the Commission of any changes within 30 days after they occur.

PARAGRAPH IV C(8)—[ADDITIONAL PROVISIONS IN CROSS-LICENSES]

TEXT

"(8) A license to XEROX pursuant to this Paragraph IV C shall contain the provisions specified in Paragraphs IV H and IV I of this order and may contain the provisions specified in Paragraphs IV D, IV E, IV F, IV G, and IV J of this order."

ANALYSIS OF PARAGRAPH IV C(8)[12]—[PREVIOUSLY PARAGRAPH III B(9)]

Paragraph IV C(8) provides that the provisions which Xerox may include in its licenses under the order may also be included in cross-licenses to Xerox.

PARAGRAPH IV C (9)—[CROSS-LICENSED PATENTS TO BE MADE AVAILABLE TO OTHER PERSONS]

TEXT

"(9) If XEROX grants a license under ORDER PATENTS either pursuant to the terms of Paragraph II of this order or otherwise, the license agreement shall contain the irrevocable covenant of the licensee (a) to license such of its PATENTS as are licensed to XEROX on reasonable terms and conditions to any other PERSON who is entitled to a license from XEROX pursuant to Paragraph II of this order, provided (i) that such license need not be effective prior to the effective date of the licensee's license to XEROX and (ii) that the licensee may require the license to itself of its licensee's PATENTS or IMPROVEMENT PATENTS; (b) to submit the reasonableness of the terms and conditions of its license to such PERSON to arbitration as provided in Paragraph VIII of this order if so requested by such PERSON; and (c) XEROX' licensee is domiciled in the UNITED STATES to submit papers to the Commission and permit the Commission to suspend the arbitration and resolve the dispute as provided in Paragraph VIII C of this order. Within 60 days following execution of a license agreement subject to this Paragraph IV C (9), XEROX shall submit to the Commission a copy thereof in camera."

ANALYSIS OF PARAGRAPH IV C(9)—[PREVIOUSLY PARAGRAPH II B(10) AND PARAGRAPH III B(11)]

Past patent orders allowing cross-licensing have been criticized for permitting the respondent to "funnel" its competitor's technology back through itself, thereby giving it the advantage of access to the technology of many firms, which those firms might not make available to each other. The order eliminates the funnelling effect by requiring in Paragraph IV C(9) that Xerox may only take a cross-license if the licensee irrevocably agrees to license those patents to others as well. It provides that only patents which are licensed to Xerox need be licensed to others.

The principal difference between the previous order and this order is the consolidation of previous Paragraphs III B (10) and III B(11). Specifically, this order permits licenses to others to be on reasonable terms and conditions, e.g. reasonable royalties, whereas the previous order restricted royalty rates to ½% per patent with a 1½% per product maximum. Thus, the full value of licensed patents may be demanded. Licensees may negotiate the length of the lag period on such licenses; however, the effective date of the license need not be effective prior to the effective date of the licensee's license to Xerox. Also, the provision is clarified to permit licensees to require the license to itself of its licensee's patents or improvement patents.

The order does not preclude Xerox from entering into licenses "outside the terms of the order" if the licensee does not wish to insist on all of its rights under the order. By allowing freedom to negotiate "outside the order" in an environment in which competitors have the leverage of their rights under the order, the order establishes minimum standards of conduct for Xerox and its cross-licensing licensees and also maintains the flexibility of a free market. However, the order permits Xerox to negotiate "outside the order" agreements only if patents cross-licensed to Xerox in such an agreement also are available to Xerox's competitors.

Controversies over the reasonableness of the terms and conditions are subject to arbitration, which, as in the case of the arbitration to which Xerox must submit, may be suspended by the Commission, which may then resolve the dispute itself. However, submission to Commission jurisdiction is required only of domestic firms; foreign companies may limit their obligation solely to private arbitration. The latter provision recognizes the reluctance of foreign companies to submit to United States Government regulation and avoids potential jurisdictional disputes.

This paragraph is optional; Xerox has agreed that the Commission may include it or not, as the Commission, in its sole discretion, determines to be in the public interest.

PARAGRAPH IV D—[ROYALTY REPORTS]

TEXT

"D. Reasonable provisions may be made for the retention of books and records and for periodic royalty reports by the licensee to the Manager of Patent Licensing of the licensor, and for inspection of such books and records by an independent auditor or any person reasonably acceptable to both the licensor and the licensee who shall report to said Manager only the amount of the royalty due and payable. The Manager of Patent Licensing of the licensor shall not disclose the content of said periodic royalty reports to any director, officer, employee, agent or representative of the licensor other than the members of his staff and employees necessarily involved in recording and depositing checks in a routine manner, who shall be similarly bound, unless the royalty owed is not timely paid. In the event that the licensor does not have a Manager of Patent Licensing, a mutually agreeable employee of the licensor shall be designated in his stead."

ANALYSIS OF PARAGRAPH IV D— [PREVIOUSLY PARAGRAPH III C]

Licenses may provide for royalty payments and royalty reports. Confidential information of the licensee is protected by requiring that books be inspected only by neutral parties and that royalty reports be sent to a person concerned only with patent matters. The latter may not disclose the royalty reports to anyone other than his staff or the employees involved in recording and depositing checks.

PARAGRAPH IV E—[SUBLICENSE]

TEXT

"E. Notwithstanding any other provision of this order, any party taking a sublicense under the terms of this order may be required to reimburse the sublicensor for any payments it is legally required to make and does make to the original licensor on account of activities of the sublicensee under any sublicense granted pursuant hereto."

ANALYSIS OF PARAGRAPH IV E—[PREVIOUSLY PARAGRAPH III D]

If a license which must be granted pursuant to the order is, in fact, a sublicense, the sublicensor may require the licensee to make reimbursement for payments made to its licensor by reason of its licensee's activities under the sublicense. Xerox has only one extant license under which it will be required to sub-license pursuant to the order.

PARAGRAPH IV F—[CANCELLATION OF LICENSE BY XEROX]

TEXT

"F. Reasonable provisions may be made for cancellation of the license

[12] The previous order provision III B(8) has been deleted. That provision had required the person who designed and manufactured a product to submit to the cross-licensing obligation if the actual licensee was merely a marketer of the product.

granted to the licensee upon failure of the licensee to make the reports, pay the royalties, or permit the inspection of his books and records as hereinbefore provided, and, upon a wrongful act of the LICENSEE respecting the restrictions on use or disclosure of KNOW-HOW contained in Paragraph VII of this order, for XEROX to apply to the Commission for leave to cancel said license, in which event the decision of the Commission shall be final and non-appealable by either XEROX or the LICENSEE."

ANALYSIS OF PARAGRAPH IV F—[PREVIOUSLY PARAGRAPH III E]

Xerox or the licensee may cancel a license for nonpayment of royalties. Xerox may also cancel the license for non-compliance with the licensee's obligations respecting non-disclosure of Xerox know-how. The latter provision for cancellation, however, can be invoked only in the case of a "wrongful act" by the licensee and then only with prior Commission approval.

PARAGRAPH IV G—[PREVIOUSLY III F] [LICENSE NON-TRANSFERABLE]

TEXT

"G. The license may be non-transferable."

PARAGRAPH IV H—[LICENSEE MAY CANCEL LICENSE]

TEXT

"H. The license must provide that the licensee may cancel the license in whole or as to any specified PATENTS at any time by giving 30 days notice in writing to the licensor; however, the licensor shall have the option to continue in effect any right granted to the licensor pursuant to Paragraph IV C of this order."

ANALYSIS OF PARAGRAPH IV H—[PREVIOUSLY III G]

The first portion of the Paragraph IV H is a typical cancellation provision. The second portion, allowing retention of rights granted by the cancelling party, is an adjunct of the provisions allowing cross-licensing.

PARAGRAPH IV I—[PREVIOUSLY PARAGRAPH III H] [LICENSE PROVISION FOR ARBITRATION]

TEXT

"I. The license must provide for the arbitration specified in Paragraph VIII of this order and for suspension thereof pursuant to Paragraph VIII C of this order."

PARAGRAPH IV J—[PREVIOUSLY PARAGRAPH III I] ["OUTSIDE THE ORDER" LICENSE PERMITTED]

TEXT

"J. In granting a license pursuant to Paragraph II of this order, there shall be no discrimination by XEROX, RANK XEROX, FUJI XEROX or any PERSON in the royalty charged as among royalty-paying LICENSEES who procure the same rights under the same PATENTS; but nothing herein contained shall prevent XEROX, RANK XEROX, FUJI XEROX or any PERSON from negotiating non-exclusive licenses and cross-licenses outside the terms (except Paragraph IV C (9) of this order) of this order with anyone who so elects."

PARAGRAPH V—[LEAR CLAUSE]

TEXT

"It is further ordered, That nothing herein shall be deemed to prevent any LICENSEE or applicant for a license from attacking in any proceeding or controversy the validity, scope or enforceability of any PRESENT or FUTURE PATENT, nor shall this order be construed as imputing any validity, enforceability or value to any such PATENT.

ANALYSIS OF PARAGRAPH V—[PREVIOUSLY PARAGRAPH IV]

In "Lear, Inc. v. Adkins," 395 U.S. 653 (1969), the Supreme Court held that licensors of patents may not extract an agreement from their licensees not to attack the validity of the licensed patent. Paragraph V makes it clear that the Commission does not sanction any different rule for licenses granted pursuant to the order.

PARAGRAPH VI—[BENEFITS TO EXISTING LICENSEES]

TEXT

"It is further ordered, That XEROX shall allow each PERSON who is a licensee of a XEROX PATENT on the date of issuance of this order to obtain a license pursuant to the terms of this order; however, XEROX, RANK XEROX and FUJI XEROX shall have the right to continue in effect any industrial property rights under the terms previously granted to XEROX, RANK XEROX or FUJI XEROX by the licensee, and such licensee shall have the right to continue in effect any industrial property rights under the terms previously granted to the licensee by XEROX, RANK XEROX or FUJI XEROX."

ANALYSIS OF PARAGRAPH VI—[PREVIOUSLY PARAGRAPH V]

Paragraph VI requires Xerox to make the benefits of the order available to existing licensees. Xerox, however, need not give up whatever rights to use the licensee's technology it has obtained in its few existing cross-licensees.

Paragraph VII—[KNOW-HOW]

TEXT

"It is further ordered, That: A. During the period ending five years after the date of issuance of this order, XEROX shall make available to LICENSEES of United States ORDER PATENTS under a license pursuant to the terms of this order who make written application therefor all KNOW-HOW (1) in existence on the date of issuance of this order or (2) made available to any other UNITED STATES manufacturer (except a supplier to XEROX) or UNITED STATES marketer of OFFICE COPIER PRODUCTS for use in connection with such PRODUCTS during the five year period. The delivery of the KNOW-HOW requested shall begin within 30 days and shall be completed within 120 days after the initial application therefor is received by XEROX; the response to subsequent requests shall be completed within a reasonable period of time. Such KNOW-HOW shall be of such a nature as to enable one skilled in manufacturing electro-mechanical office machinery and in the technologies embodied in OFFICE COPIER PRODUCTS or comparable technologies to manufacture, refurbish, recondition and service Xerox Corporation's OFFICE COPIER PRODUCTS. Upon written application, XEROX shall provide written clarification respecting such KNOW-HOW where such clarification is reasonably necessary. XEROX may make a reasonable charge for the cost of collecting and duplicating KNOW-HOW which it discloses and for the time spent in clarification. At the option of such LICENSEE, XEROX shall disclose KNOW-HOW pertaining to photosensitive elements, supplies, raw materials and particular OFFICE COPIER models and shall limit its charge to such KNOW-HOW. XEROX may require the LICENSEE to agree that all KNOW-HOW disclosed to the LICENSEE by XEROX shall be considered a XEROX trade secret and to undertake, in good faith, to use the KNOW-HOW only in connection with the manufacture in the UNITED STATES of OFFICE COPIER PRODUCTS by or for the LICENSEE and not to disclose or permit the disclosure of the KNOW-HOW to anyone other than a supplier who is or will be manufacturing in the UNITED STATES and who enters into a similar agreement and undertaking respecting disclosure and use, unless the LICENSEE can establish that such KNOW-HOW (1) was previously known to the LICENSEE prior to the disclosure by XEROX, or (2) is or becomes part of the public domain through no wrongful act of LICENSEE, or (3) is subsequently otherwise legally acquired by LICENSEE, or (4) was or is disclosed by XEROX to third parties on a non-confidential basis.

B. Commencing 120 days after the date of issuance of this order XEROX shall make available to KNOW-HOW licensees a list of the PERSONS whose KNOW-HOW Xerox claims to be prohibited from disclosing. Such list shall be subject to the restrictions on use and disclosure of KNOW-HOW provided in this Paragraph VII. XEROX need not make KNOW-HOW available to IBM."

ANALYSIS OF PARAGRAPH VII—[PREVIOUSLY PARAGRAPH VI]

Paragraph VII requires Xerox to reveal to all persons who obtain a license from Xerox all written know-how in existence, as of the date of the order, relating to the manufacturing, refurbishing, retrofitting, reconditioning and servicing of its office copier products. Know-how includes all of Xerox's blueprints, drawings, specifications, test

standards and formulae.[13] The know-how will be made available at a reasonable charge not exceeding the cost of collecting and duplicating the know-how. In addition, upon application Xerox must provide written clarification where clarification is reasonably necessary.

The order requires that these materials must be sufficient to enable one skilled in the art of manufacturing electromechanical equipment and in the technologies pertinent to office copiers or comparable technologies to manufacture Xerox's copiers. Know-how is available only for use in manufacturing in the United States except to the extent the licensee can show that material is in the public domain, or is otherwise known to the licensee. Know-how need not be made available to IBM.

A sentence was added to this provision which requires Xerox to begin delivering know-how within 30 days and to complete delivery within 120 days after the initial request for know-how is received. Responses to subsequent requests must be completed within a reasonable period of time. Thus, Xerox is required to make its know-how available "forthwith" after the issuance of the order so that licensees will have immediate access to the know-how.

Other aspects of the know-how provisions include the following:

1. The licensee need not pay for the entire know-how package of all Xerox know-how. Subpackages of know-how pertaining to specific copier models, to photosensitive elements, and to particular supplies will be available.

2. Know-how is avaiable only to icn

2. Know-how is available only to licensees of Xerox's United States patents

3. The know-how need be disclosed only during the five years following the order, and it need be current only as of the date of the order or of subsequent disclosures, if any, to competitors in the United States.

4. Xerox need not disclose know-how which it is prohibited by a legally enforceable obligation from disclosing. This clause protects the trade secrets of Xerox suppliers who have disclosed know-how, in confidence, to Xerox in connection with supplying products to Xerox. Under the order Xerox must make a list of such suppliers available to licensees, so that the latter will be able to seek the know-how on their own.

5. Under Paragraph IV E, Xerox may apply to the Commission for cancellation of the patent license of a licensee who has committed a "wrongful act" respecting its obligations to keep know-how confidential or use it only in the United States.

PARAGRAPH VIII—[ARBITRATION]

TEXT

"It is further ordered, That: "A. Upon receipt of a written application for a PATENT license or for a PATENT license and disclosure of KNOW-HOW under the terms of this order, XEROX shall advise the applicant in writing of the terms of such license and/or KNOW-HOW disclosure. If a dispute arises between XEROX and a LICENSEE or applicant regarding their respective rights under this order (except where certain matters are specifically referable to the Commission as provided in Paragraph IV F of this order), and if the parties to the dispute are unable to resolve it within 90 days after the existence of such dispute is communicated in writing to XEROX or to the LICENSEE or applicant, the dispute shall be determined by arbitration pursuant to this Paragraph VIII. Notwithstanding the provisions of Paragraph V of this order, no dispute between XEROX and a LICENSEE or applicant with respect to the validity, enforceability, infringement or scope of any PATENT shall be subject to arbitration pursuant to this order..

"B. Unless otherwise agreed to by the parties, arbitration shall be held at a location in the UNITED STATES designated by the LICENSEE or applicant and in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The award of the arbitrator shall be final and binding on both parties. The arbitrator shall, upon a proper showing, issue protective orders and/or receive evidence in camera in the same manner as an Administrative Law Judge of the Federal Trade Commission.

"C. Within 10 days after the initiation of arbitration, XEROX shall notify the Commission of the parties to the arbitration, the name of the arbitrator, and the nature of the dispute. XEROX shall notify the Commission of the dates of arbitration hearings and other arbitration proceedings, if any, as soon as possible. Copies of all papers in the nature of pleadings shall be served upon the Commission, and the Commission or its designee shall have the right to attend any arbitration proceeding. The Commission may, in its sole discretion, at any time before evidence has been submitted, suspend the provisions of this Paragraph VIII respecting arbitration and itself resolve any or all disputes subject thereto. The Commission will not assert any claim that XEROX has violated this order with respect to the subject matter of the arbitration where XEROX has complied with the award of the arbitrator.

"D. Pending the completion of any negotiation, arbitration or Commission action respecting a dispute subject to this Paragraph VIII, XEROX and the applicant shall enter into a license, and XEROX shall make disclosure of KNOW-HOW, pursuant to the terms of this order with respect to the matters not in dispute. Upon conclusion of any negotiation, arbitration or Commission action, the disputed license or KNOW-HOW disclosure may provide for such adjustments as the parties agree to or as the arbitrator or Commission, as the case may be, deems appropriate."

ANALYSIS OF PARAGRAPH VIII—[PREVIOUSLY PARAGRAPH VII]

Paragraph VIII provides that all disputes between Xerox and applicants for licenses, or between Xerox and licensees, must be resolved by arbitration, so that the Commission is not burdened with litigation involving highly complex technical issues. Examples of disputes which might be arbitrated are (1) whether Xerox had actually developed a device prior to first publication of the licensee's patent for purposes of Paragraph IV C (3); (2) whether a licensee is entitled to clarification of know-how pursuant to Paragraph VII; and (3) whether the royalty payable for machines used by the licensee is accurately computed under Paragraph IV B.

The Commission retains the power to resolve disputes between itself and Xerox. In addition, under Paragraph VIII C, the Commission may suspend operation of the arbitration clause, either generally or as to specific disputes, at any time before evidence has been submitted to an arbitrator. Thus, if arbitration appears not to be serving the public interest, the Commission may return resolution of disputes to its own cognizance.

Arbitration is to be pursuant to the Rules of the American Arbitration Association. Paragraph VIII B adds that the arbitrator must grant protective orders and receive evidence in camera under the standards applied in Commission proceedings.

Regardless of how long a negotiation or dispute settlement takes, under Paragraph VIII D, Xerox must issue licenses and make disclosure of know-how with regard to matters not in dispute.

This paragraph has been modified by providing in Paragraph VIII A that disputes between Xerox and a licensee or applicant, with respect to patent infringement and patent scope, be excluded from arbitration, since they overlap with validity issues which had been excluded from arbitration by the previous order.

PARAGRAPH IX—[TRANSLATION OF FOREIGN PATENTS]

TEXT

"It is further ordered, That for the period ending six years after the date of issuance of this order, XEROX shall make available (a) English language translations of all ORDER PATENTS issued after the date of issuance of this order to XEROX, RANK XEROX, and FUJI XEROX by France, The Federal Republic of Germany, Japan, and The Netherlands, and (b) copies of all English language CORRESPONDING PATENTS at a reasonable charge not to exceed the cost of reproduction and, if the translation is made at the instance of the requesting PERSON, the cost of translation."

ANALYSIS OF PARAGRAPH IX—[PREVIOUSLY PARAGRAPH VIII]

Paragraph IX requires Xerox to make available translations of foreign patents issued by France, Germany, The Netherlands and Japan. In addition, this provision has been changed by requiring Xerox to furnish copies of all English language corresponding patents. Xerox may charge only for the cost of copying, and of translation if the translation was made at the request of the applicant.

[13] "Know-how" is defined in Paragraph I T [previously Paragraph I R].

PARAGRAPH X—[ACQUISITION OF PATENTS OR KNOW-HOW]

TEXT

"It is further ordered, That for the period ending 10 years after the date of issuance of this order, XEROX shall not, directly or indirectly, acquire from any PERSON (including The RANK Organisation Limited and Fuji Photo Film Co., Ltd.) any exclusive rights, whether by license or otherwise to any PATENTS or know-how for use in OFFICE COPIER PRODUCTS except those (a) resulting from the work of XEROX, RANK XEROX or FUJI XEROX employees, XEROX, RANK XEROX or FUJI XEROX consultants, or research organizations doing sponsored research for XEROX, RANK XEROX or FUJI XEROX, or (b) under which XEROX grants or causes to be granted to any person making written application a non-exclusive, royalty-free, unrestricted license to make, have made, use or vend OFFICE COPIER PRODUCTS under such PATENT or know-how. Any exclusive rights acquired by XEROX in accordance with part (a) of this Paragraph X shall be on such terms as will permit XEROX to comply with the licensing provisions of Paragraph II of this order. This Paragraph X shall not apply to any acquisition or exclusive license of a FOREIGN PATENT or of the right to use the know-how in a foreign country by RANK XEROX or FUJI XEROX."

ANALYSIS OF PARAGRAPH X—[PREVIOUSLY PARAGRAPH IX]

Paragraph X imposes a 10-year moratorium on the acquisition of office copier product patents or exclusive licenses, even from Xerox's joint venture partners, Rank Organisation and Fuji Photo Film Co., Ltd. The patent acquisition prohibition, however, does not apply to acquisitions from consultants or companies doing sponsored research for Xerox, to acquisitions of foreign patents by Rank Xerox and Fuji Xerox, or to patents under which Xerox grants royalty-free, totally unrestricted licenses. A sentence has been added to this provision requiring that exclusive licenses issued to Xerox shall be on such terms as will enable Xerox to comply with the licensing provisions of Paragraph II of this order. Also, the provision has been changed to make it applicable to acquisitions of know-how as well as of patents.

PARAGRAPH XI—[PREVIOUSLY PARAGRAPH X] [DISPOSITION OF PATENTS]

TEXT

"It is further ordered, That XEROX shall not dispose or permit the disposition of any PATENTS or rights thereunder so as to deprive it of the power to grant or cause to be granted the licenses required by this order."

PARAGRAPH XII—[ACQUISITIONS OF COMPETITORS]

TEXT

"It is further ordered, That for the period ending 10 years after the date of issuance of this order XEROX shall not, directly or indirectly, acquire any interest in a PERSON (including The Rank Organisation Limited and Fuji Photo Film Co. Ltd.) engaged in the manufacture, sale, lease or development of OFFICE COPIERS, or toner, developer, paper or photosensitive elements used in OFFICE COPIERS or from a joint venture involving any such products with any such PERSON (except The Rank Organisation Limited or Fuji Photo Film Co. Ltd. so long as either is a party to a joint venture with XEROX or RANK XEROX relating to OFFICE COPIER PRODUCTS). This paragraph shall not apply (1) to the acquisition by XEROX of any interest in or joint venture with any PERSON in which at the time of the acquisition or joint venture it had a stock interest, other than a PERSON in which XEROX had such an interest by reason of an investment in employee funds such as pension or retirement plans (XEROX shall promptly file with the Commission a list of the PERSONS in which it has a stock interest as of the date of issuance of this order and to which this exception is to apply. Said list shall be updated as part of the annual compliance report required by Paragraph XIX of this order), or (2) to any acquisition by RANK XEROX or FUJI XEROX of a PERSON not engaged in the manufacture, sale, lease or development of OFFICE COPIERS but who is engaged in the manufacture, sale, lease or development, solely outside of the UNITED STATES, of toner, developer, paper or photosensitive elements used in OFFICE COPIERS, or to the formation of a joint venture by RANK XEROX or FUJI XEROX involving any such products with any such PERSON, or (3) to a joint venture involving new capacity for the production of paper with a PERSON other than one engaged in the manufacture, sale, lease or development of OFFICE COPIERS, or toner, developer or photosensitive elements used in OFFICE COPIERS, or (4) to the acquisition by XEROX of an interest in any PERSON the sole purpose of which is an investment in employee funds such as pension or retirement plans. Such acquisitions, however, shall not be deemed immune or exempt from the provisions of the antitrust laws (including the Federal Trade Commission Act) by reason of anything contained in this order."

ANALYSIS OF PARAGRAPH XII—[PREVIOUSLY PARAGRAPH XI]

Paragraph XII imposes a 10-year moratorium on the acquisition of, or the entering into joint ventures with, companies engaged in the office copier business. The company acquisition ban does not apply to acquisitions of a further interest in companies in which Xerox already has an interest at the time of acquisition (i.e. subsidiaries and foreign joint ventures) or to acquisitions by Rank Xerox and Fuji Xerox of persons engaged in the manufacture, sale, lease or development outside the United States of office copier products, other than office copiers.

The following minor changes in this paragraph have been made:

(a) Xerox is required to file with the Commission a list of the companies in which it has an interest and to which the prohibitions of this paragraph do not apply. The list shall be updated as part of Xerox's annual compliance report.

(b) The exception to the prohibitions of this paragraph was clarified to exclude Xerox's interests resulting from investment in employee funds, such as retirement or pension plans.

(c) The phrase "photoconductive plates" in XII (2) has been changed to "photosensitive elements."

(d) The reference to antitrust laws in the last sentence has been modified to include Section 5 of the Federal Trade Commission Act.

PARAGRAPH XIII—[EMPLOYEE CONTRACTS]

TEXT

"It is further ordered, That during the period ending 10 years after the date of issuance of this order, XEROX shall not, directly or indirectly, make contracts in the UNITED STATES restricting employees working in its OFFICE COPIER PRODUCTS business from in the future working for any other PERSON, provided that XEROX may make contracts which prohibit the use or disclosure of trade secrets and confidential information as prohibited by XEROX' present form of "Proprietary Information and Conflict of Interest Agreement" which has been submitted to the Commission."

ANALYSIS OF PARAGRAPH XIII—[PREVIOUSLY PARAGRAPH XII]

Paragraph XIII prohibits Xerox for 10 years from preventing its employees from working for other companies. However, Xerox may prohibit the disclosure of confidential information, and it is specifically permitted to use its current employee form.

PARAGRAPH XIV—[PACKAGE PRICING]

TEXT

"It is further ordered, That during the period commencing on a date not later than nine months after the date of issuance of this order and ending 5 years after said commencement date, XEROX shall not, directly or indirectly, utilize in the UNITED STATES any price plan for the sale or lease of an OFFICE COPIER which depends upon the customer purchasing or leasing one or more additional OFFICE COPIERS of a different model."

ANALYSIS OF PARAGRAPH XIV—[PREVIOUSLY PARAGRAPH XIII]

Paragraph XIV, which is effective for five years, is directed at Xerox's "Machine Utilization Plan" ("MUP") pricing, under which Xerox copiers with disparate usage patterns are "packaged leased" to the detriment of competitors whose copiers compete in less than all usages. This paragraph prohibits Xerox from leasing or selling copiers under a pricing plan which requires a customer

to purchase or lease one or more different model Xerox office copiers. This provision is different from the previous order which had required Xerox to break its present products into discrete, smaller groups, each of which was to have a completely separate pricing plan. The absolute prohibition of group pricing will mean that the new entrants, all of whom have one or, at most, two plain paper copiers, will be able ot market their copiers on a model-by-model basis. Thus, Xerox will lose its ability to use the superior competitive strength of some copiers to protect its more vulnerable copiers.

PARAGRAPH XV—[DISPARAGEMENT]

TEXT

"It is further ordered, That: A. During the period ending 10 years after the date of issuance of this order, XEROX shall, in addition to instructing its employees in the UNITED STATES not to comment on the quality of competitive toner or developer, place a notice in a location conspicuous to the key operator on each OFFICE COPIER sold or leased by it in the UNITED STATES stating the following: "Xerox Corporation manufactures and distributes toner and developer for use in this machine. Other suppliers may also provide toner and developer for this machine. It may be necessary to adjust the machine to accommodate toner or developer which is provided by either Xerox or any other supplier."

B. In the event that XEROX shall publish reasonable specifications for the toner and developer used in a particular machine XEROX (1) may include the following additional statement in the aforementioned notice: "The toner and developer used in this machine must comply with minimum specifications published by Xerox Corporation", (2) shall promptly notify all suppliers of toner and developer, who request such notification, of any changes in such specifications, and shall promptly notify a supplier when his toner or developer does not comply with such specifications in a letter signed by an officer of XEROX, and (3) may not require suppliers of toner or developer for XEROX' OFFICE COPIERS to provide to XEROX' customers a certification that the toner or developer supplied by them meets such specifications.

C. XEROX shall promptly notify all suppliers of toner and developer, who request such notification, of changes in XEROX OFFICE COPIERS which may affect the usability of the toner and developer in such OFFICE COPIERS.

D. Nothing herein contained shall prevent XEROX from advising a customer, in a letter signed by an officer of XEROX, that a non-XEROX toner or developer is not usable in a particular XEROX OFFICE COPIER, provided that XEROX simultaneously advises the suppliers of such toner or developer, in a letter signed by an office of XEROX, that (1) in the opinion of XEROX, the supplier's toner or developer is not usable in a particular OFFICE COPIER model, and (2) disputes regarding the usability of the toner or developer are subject to arbitration pursuant to this order. Disputes regarding the usability of non-XEROX toner and developer or the reasonableness of XEROX' specifications shall be subject to arbitration in accordance with Paragraph VIII (b) and (c) of this order.

E. XEROX may not, directly or indirectly, require in the UNITED STATES that it be the sole supplier of toner or developer for leased or sold OFFICE COPIERS; however, it may impose such a requirement with respect to a new model during the six months from the date such model first becomes COMMERCIALLY AVAILABLE. For purposes of this Paragraph XV, "new model" includes collectively the basic office copier model and all subsequent models not embodying material variations in the xerographic processor thereof.

ANALYSIS OF PARAGRAPH XV—[PREVIOUSLY PARAGRAPH XIV]

Paragraph XV provides that for 10 years Xerox must instruct its employees not to comment on the quality of the toner and developer products sold by competitors for use in Xerox leased or sold equipment. Xerox must also place a prominent notice on each machine stating that competitive toner and developer are available and that their use, as well as the use of Xerox toner or developer,[14] may require adjustment of the machine. Also, the order prohibits Xerox from tying toner and developer to copier rental or sale, except during the six month break-in period immediately following introduction of the model. This is a change from the one-year period allowed in the previous order.

The following changes in Paragraph XV were also made:

(1) Upon request, Xerox shall promptly notify toner and developers suppliers of changes made by Xerox in its copiers which affect the usability of toner or developer.

(2) If Xerox is ultimately able to publish reasonable specifications, it shall notify toner and developers suppliers when their products do not comply with the specifications.

(3) The order permits Xerox to advise customers that a non-Xerox toner or developer is not usable in a particular copier. However, Xerox must also simultaneously notify the supplier of such toner and developer that the particular toner or developer was not usable.

(4) Disputes regarding either the usability of toner or developer or of the reasonableness of Xerox's specifications are made subject to arbitration in accordance with Paragraph VIII (b) and (c) of the order.

(5) Xerox is prohibited from requiring that non-Xerox suppliers of toners and developers certify to Xerox's customers that their toner and developer comply with Xerox's specifications. Currently Xerox requires such a certification with regard to toner and developer used in its Model 9200, its newest machine. Thus, Xerox would be prohibited from continuing to require non-Xerox suppliers of toner and developer to certify that their toner and developer comply with Xerox's specifications.

[14] This phrase represents a change from the previous order.

PARAGRAPH XVI—[PREMATURE ANNOUNCEMENT AND PREMATURE PROMOTION]

TEXT

"It is further ordered, That during the period ending 10 years after the date of issuance of this order, (1) XEROX shall not in the UNITED STATES take orders or announce that it will take orders for the sale or lease of an OFFICE COPIER more than three months prior to the time when it is reasonably expected to be COMMERCIALLY AVAILABLE, (2) XEROX shall not promote any new OFFICE COPIER in any area of the United States more than three months prior to the time that XEROX reasonably expects such new OFFICE COPIER to be first COMMERCIALLY AVAILABLE in that area except for national advertising which includes a statement that the model is available only in the areas where XEROX reasonably expects such model to be COMMERCIALLY AVAILABLE, and (3) at the time XEROX announces that it will take orders for the lease of an OFFICE COPIER in the United States, it shall also announce the selling price of such OFFICE COPIER."

ANALYSIS OF PARAGRAPH XVI—[PREVIOUSLY PARAGRAPH XV]

Paragraph XVI provides that Xerox shall not take orders or announce that it will take orders for a new model more than three months before expected commercial availability[15] of the model. The previous order had prohibited this conduct for six months prior to expected commercial availability.

This provision has also been revised in the following respects: Xerox is prohibited from promoting any new office copier in the United States prior to three months before its expected commercial availability. Xerox may engage in national advertising before products are commercially available throughout the country so long as it includes a statement as to the areas where Xerox expects the model to be commercially available.

A further addition in this provision is a requirement that Xerox announce a selling price for an office copier at the same time it announces it will take orders for the lease of an office copier.

PARAGRAPH XVII—[NOTICE PROVISIONS]

TEXT

"It is further ordered, That within 30 days after the date of issuance of this order and annually thereafter until the expiration of all FUTURE PATENTS,

[15] "Commercially available" is defined in Paragraph I U [previously Paragraph I S] as "generally available for immediate sale or lease to consumers in an area or at least as large an area served by at least one sales branch of the seller or lessor and on publicly announced terms."

XEROX shall submit for publication in the Official Gazette of the United States Patent Office a notice (1) identifying by number, title, date of issue and category of subject matter (to an extent acceptable to the Commission) all United States PATENTS which it is empowered to license together with all FOREIGN PATENTS based on the patent application from which each United States PATENT originates; (2) stating that XEROX shall grant licenses under (a) its ORDER PATENTS to make, have made, use and vend OFFICE COPIER PRODUCTS under the terms of this order, and (b) patents required to be licensed pursuant to the terms of Paragraph X of this order, if any; (3) stating that XEROX shall disclose KNOW-HOW to a licensee of its United States ORDER PATENTS for use in connection with the manufacture of OFFICE COPIER PRODUCTS in the UNITED STATES under the terms of this order; and (4) stating that a copy of this order and a list of PATENTS licensed to XEROX which are subject to the provisions of Paragraph II and IV C(9) of this order, if any, are available from XEROX upon written request. Beginning 30 days following the date of issuance of this order, and until the expiration of all XEROX FUTURE PATENTS, XEROX shall send a copy of this order and of the current edition of such notice to each person who inquires as to the availability of a license for OFFICE COPIER PRODUCTS, or to whom XEROX has offered such a license at any time after January 1, 1970."

ANALYSIS OF PARAGRAPH XVII—[PREVIOUSLY PARAGRAPH XVI]

Under Paragraph XVII, Xerox must send a copy of the order to every person to whom it offered any type of license since 1970, a group which includes most active participants in the industry, and to persons who inquire about a license. Xerox must also make available a list of patents under which it is licensed and which, consequently, must be licensed, pursuant to Paragraph IV C(9) of the order. A change from the previous order is a requirement that the list of Xerox patents include the number, title, date of issuance and subject matter of the patents and a list of all foreign patents based on the patent application from which each United States patent originates. In addition, annually, for at least the next 23 years, Xerox must place a notice of its obligations under the order in the Official Gazette of the United States Patent Office, a periodical which is carefully reviewed by patent attorneys.

PARAGRAPH XVIII—[PREVIOUSLY PARAGRAPH XVII] [CHANGE IN CORPORATE STRUCTURE]

TEXT

"It is further ordered, That XEROX notify the Commission at least 30 days prior to any proposed change in the respondent, RANK XEROX or FUJI XEROX which may affect compliance obligations arising out of this order, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other such change."

PARAGRAPH XIX—[PREVIOUSLY PARAGRAPH XVIII COMPLIANCE REPORTS]

"It is further ordered, That XEROX shall file with the Commission reports, in writing, setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with this order. Said reports shall be filed 60 days and 180 days after the date of issuance of this order, and yearly thereafter on the anniversary date of the order during the period in which XEROX has obligations under this order, and shall contain such information and documents as are requested by the Bureau of Competition or the Commission relating to compliance with this order."

Issued by Commission direction of April 15, 1975.

CHARLES A. TOBIN,
Secretary.

[FR Doc.75-11172 Filed 4-28-75;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on April 22, 1975. See 44 U.S.C. 3512 (c) & (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FEA form are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed form, comments (in triplicate) must be received on or before May 12, 1975, and should be addressed to Mr. Monte Canfield, Jr., Director, Office of Special Programs, United States General Accounting Office, 425 I Street, NW, Washington, D.C. 20548.

Further information may be obtained from the Regulatory Reports Review Officer, 202-376-5425.

FEDERAL ENERGY ADMINISTRATION

This is a request for clearance of Surplus Propane/Butane Purchase Report, FEA-P109-S-O. This is a new report to be filed by wholesale purchasers for each purchase of surplus propane or butane. This report identifies the supplier and the amount and price of surplus product purchased.

Potential respondents are estimated to be a maximum of 8,000 Wholesale-Purchasers having to file quarterly, although considerably less than this number may actually purchase surplus product and be required to report. Respondent burden is estimated at 30 minutes per report. Because a purchaser may have more than one supplier and make more than one purchase of surplus product, it is possible that a single purchaser may be required to complete several of the reports.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.75-11118 Filed 4-28-75;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. G-21]

SECRETARY OF DEFENSE AND CHAIRMAN, ATOMIC ENERGY COMMISSION

Revocation of Delegations of Authority

1. *Purpose.* This regulation revokes certain delegations of authority granted to other agencies to represent the consumer interests of the executive agencies of the Federal Government in transportation regulatory proceedings which have been terminated.

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date.* This regulation expires April 30, 1975.

4. *Revocation.* This revocation identifies those delegations which are no longer in force due to completion of the proceedings for which they were issued. Accordingly, the following FPMR temporary regulations are hereby revoked:

Number	Date	Subject
G-6	Oct. 16, 1969	Delegation of Authority to Secretary of Defense—Regulatory Proceeding.
G-7	Mar. 19, 1970	Delegation of Authority to Chairman, Atomic Energy Commission—Regulatory Proceeding.
G-10	June 25, 1971	Delegation of Authority to Chairman, Atomic Energy Commission—Regulatory Proceeding.

ARTHUR F. SAMPSON,
Administrator of General Services.

APRIL 20, 1975.

[FR Doc.75-11091 Filed 4-28-75;8:45 am]

INTERNATIONAL TRADE COMMISSION

[AA1921-Inq.-1]

BUTADIENE ACRYLONITRILE RUBBER FROM JAPAN

Commission Does Not Determine "No Reasonable Indication of Injury"

On March 24, 1975, the United States International Trade Commission received advice from the Department of the Treasury that, in accordance with section 201 (b) of the Antidumping Act of 1921, as amended, an antidumping investigation was being initiated with respect to butadiene acryonitrile rubber from Japan, and that, pursuant to section 201(c) of the Act, information developed during the summary investigation led to the conclusion that there is substantial doubt

whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such butadiene acrylonitrile rubber from Japan into the United States. Accordingly, the Commission on March 28, 1975, instituted an inquiry, No. AA1921–Inq.–1, under section 201(c)(2) of the Act to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing was held on April 11, 1975. Public notice of the institution of the inquiry and hearing was duly given by posting copies of the notice at the Secretary's office in the Commission in Washington, D.C., and at the Commission's office in New York City, and by publishing the original notice in the FEDERAL REGISTER of April 3, 1975 (40 FR 15012–15013).

The Treasury Department instituted its investigation after receiving a complaint on November 24, 1974, from Uniroyal, Inc., of Naugatuck, Conn. Treasury's notice of its antidumping proceeding was published in the FEDERAL REGISTER of March 27, 1975 (40 FR 13532).

On the basis of its inquiry with respect to imports of butadiene acrylonitrile rubber from Japan apparently sold at less than fair value, the Commission[1][2] does not determine that there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

STATEMENT OF REASONS OF CHAIRMAN BEDELL, VICE CHAIRMAN PARKER AND COMMISSIONER LEONARD[3]

Although the statute does not appear to require a statement of reasons for a negative determination, we believe it is appropriate to do so, particularly since this is the first proceeding under section 201(c)(2) of the Antidumping Act, 1921, as amended by section 321 of the Trade Act of 1974.

This inquiry is before the Commission at this time because the Secretary of the Treasury, acting pursuant to the provisions of aforesaid section 201(c)(2) of the Antidumping Act, as amended, advised the U.S. International Trade Commission on March 24, 1975, that on the basis of "summary investigation," he believes there is substantial doubt whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of butadiene acrylonitrile rubber from Japan into the United States.

Section 201(c)(2) of the Antidumping Act, under which the Commission's present inquiry is being made, provides as follows:

> (2) If, in the course of making a determination under paragraph (1), the Secretary concludes, from the information available to him, that there is substantial doubt whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States, he shall forward to the Commission the reasons for such substantial doubt and a preliminary indication, based upon whatever price information is available, concerning possible sales at less than fair value, including possible margins of dumping and the volume of trade. If within thirty days after receipt of such information from the Secretary, the Commission, after conducting such inquiry as it deems appropriate, determines there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States, it shall advise the Secretary of its determination and any investigation under subsection (b) then in progress shall be terminated.

The criteria established by the foregoing provision of law are expressed in the negative and in terms of a determination that, if made by the Commission, would result in the termination of the "investigation under subsection (b) then in progress" by the Secretary of the Treasury. It is also noted that, under these circumstances, an affirmative determination that there is "no reasonable indication" of injury under the act results in a termination of the proceedings before the Department of the Treasury, while a negative determination that there is not "no reasonable indication" of injury under the Act permits the Treasury proceeding to continue.

In approaching the Commission's responsibility under section 201(c)(2), we are cognizant of the statement contained in the Senate Committee Report[4] which accompanied the legislation to the effect that the Committee desired to eliminate unnecessary and costly investigations which are an administrative burden and an impediment to trade. We do not believe, however, that by virtue of the amendment to the Antidumping Act there was any intent that the amendment be used to weaken—or to deny U.S. industry—the protection of the Antidumping Act, by aborting a full investigation in the absence of a clear and convincing showing that there is "no reasonable indication" that a full investigation might develop facts which could afford a basis for an affirmative injury determination under the Act.

The inquiry made by the Commission, which under the statute is required to be completed within a period of 30 days, has not established evidence which, in our judgment, would warrant a determination that there is "no reasonable indication" of injury or likelihood of injury from possible less-than-fair-value imports that would result in the termination of the less-than-fair-value investigation being conducted by the Department of the Treasury. While there is some evidence which might tend to give rise to doubts as to possible injury or likelihood of injury, such as a low level of market penetration and price increases by domestic sellers, such information is far from conclusive. The inquiry by the Commission discloses the existence of evidence which indicates a possibility of injury or possibility of likelihood of injury. The evidence, in our judgment, is certainly sufficient to negate a determination at this time that "there is no reasonable indication" of injury or likelihood of injury from possible less-than-fair-value imports.

The record before the Commission indicates that virtually all the U.S. imports of butadiene acrylonitrile rubber from Japan in 1974 were possibly sold at less than fair value and that the apparent less-than-fair-value margins were significant. There is also some evidence obtained from both domestic producers and importers which tends to show that Japanese imports undersell the comparable domestic product in the U.S. marketplace. There is also some evidence to indicate that imported Japanese products are being sold below cost and that sales have been lost to Japanese imports. The evidence, while not conclusive, certainly indicates the possibility of injury or likelihood of injury and, in our judgment, is sufficient to preclude a determination that there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of imports from Japan possibly sold at less than fair value.

We have, therefore, made a negative determination.

STATEMENT OF REASONS FOR AFFIRMATIVE DETERMINATION OF COMMISSIONERS ABLONDI AND MINCHEW

On March 24, 1975, the Assistant Secretary of the Department of the Treasury advised that information developed during a summary antidumping investigation with respect to butadiene acrylonitrile rubber from Japan "had led to the conclusion that there is substantial doubt whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of importation of this merchandise into the United States." It is now the responsibility of the U.S. International Trade Commission under section 201(c) of the Antidumping Act of 1921 as amended by section 321 of the Trade Act of 1974 to determine whether "there is no reasonable indication that an industry in the United States is being or is

[1] Chairman Bedell, Vice Chairman Parker and Commissioners Leonard and Moore constitute the majority in this determination. Commissioners Ablondi and Minchew dissent, determining there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established.

[2] Commissioner Moore determined that there is a reasonable indication that an industry in the United States is likely to be injured.

[3] Commissioner Moore concurs in the result.

[4] Report No. 93-1298, 93rd Cong., 2d sess., p. 171, of the Committee on Finance of the United States Senate which accompanied H.R. 10710, the bill which became the Trade Act of 1974.

likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States."

The relevant statutory language in section 321 of the Trade Act of 1974, which amends section 201(c) of the Antidumping Act of 1921, reads in part—

(2) If, in the course of making a determination under paragraph (1), the Secretary concludes, from the information available to him, that there is substantial doubt whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States, he shall forward to the Commission the reasons for such substantial doubt and a preliminary indication, based upon whatever price information is available, concerning possible sales at less than fair value, including possible margins of dumping and the volume of trade. If within thirty days after receipt of such information from the Secretary, the Commission, after conducting such inquiry as it deems appropriate, determines there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States, it shall advise the Secretary of its determination and any investigation under subsection (b) then in progress shall be terminated.

On the basis of the data available from the Department of the Treasury, the Commission hearing record, and data obtained by our staff, we have concluded that there is no reasonable indication that an industry in the United States is being or is likely to be injured by reason of the importation of butadiene acrylonitrile rubber from Japan which allegedly has been sold at LTFV.

Section 201(c)(2) of the Antidumping Act of 1921 is new legislation as a result of amendments made by section 321 of the Trade Act of 1974. The instant case represents our first effort in discharging our responsibilities as set out in this new section.

The legislative intent in the enactment of section 201(c)(2) is clearly stated at page 171 of Senate Report No. 93–1298 as follows:

The amendment is designed to eliminate unnecessary and costly investigations which are an administrative burden and an impediment to trade.

If we are to give meaningful effect to the expressed intent of the Congress, we should eliminate investigations under section 201(a) when such investigations appear to be unnecessary because there is no reasonable indication that a domestic industry is being or is likely to be injured.

In our opinion, the continued investigation of this case is, at this time, unnecessary.

Under section 201(c)(2) we must assume, for the purpose of making our determination, the existence of LTFV sales. Accordingly, our jurisdiction in this case is limited to a determination of whether there is no reasonable indication of an injury or likelihood thereof to a domestic industry by reason of such sales. As stated on page 179 of the Senate report, supra

* * * the Act is primarily concerned with the situation in which the margin of dumping contributes to underselling the U.S. product in the domestic market resulting in injury or likelihood of injury to a domestic industry.

In the instant case, while there is evidence of underselling, the margin of such underselling is apparently on the decline and does not appear to have had sufficient impact to cause an injury or the likelihood thereof. Some of the price margins were attributed to the discount sales made to small customers unable to obtain similar discounts from domestic producers owing to the small quantity of their purchases.

Evidence also indicates that market advances made by the importer occurred during a period of short supply. In any event, the market penetration of LTFV sales is not significant and is insufficient to indicate injury or the likelihood therof at this time.

The domestic nitrile rubber industry is a concentrated industry in which four major producers are responsible for more than 90 percent of domestic production and two producers for the remainder. During the period of LTFV sales, the investigation revealed that prices among the domestic producers have been consistently the same and have, in fact, been rising.

We do not foreclose the possibility that an injury to this industry or the likelihood of such injury by reason of the importation of this merchandise might develop at some future date. Suffice to say that section 201(c)(2) does not require the Commission to make a determination of this possibility.

While our determination, if it represented the majority vote in this case, would have resulted in a termination of this investigation, it should be noted that there is no statutory prohibition nor any regulation or proposed regulation of Treasury that would prevent the domestic industry from filing a new petition at any time in the future should evidence of injury or its likelihood be developed.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.75–11182 Filed 4–28–75;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR ANTHROPOLOGY

Meeting

The Advisory Panel for Anthropology will hold a meeting from 9 a.m. to 5 p.m. on May 15 and 16, 1975, in Rm. 338 at 1800 G Street NW., Washington, D.C. 20550.

The purpose of this Panel is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects. This Panel functions in accordance with the Federal Advisory Committee Act, Pub. L. 92–463.

This meeting will not be open to the public because the Panel will be reviewing, discussing, and evaluating individual research proposals. Also, these proposals contain information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within the exemptions of 5 U.S.C. 552 (b) (4), (5), and (6). The closing of this meeting is in accordance with the determination by the Director of the National Science Foundation dated February 21, 1975, pursuant to the provisions of section 10(d) of Pub. L. 92–463.

For further information about this Panel, please contact Dr. Iwao Ishino, Program Director for Anthropology, Rm. 206, National Science Foundation, Washington, D.C. 20550, telephone 202/632–4208.

Dated: April 23, 1975.

FRED K. MURAKAMI,
Committee Management Officer.

[FR Doc.75–11109 Filed 4–28–75;8:45 am]

INTERNATIONAL DECADE OF OCEAN EXPLORATION PROPOSAL REVIEW PANEL

Meeting

The International Decade of Ocean Exploration Proposal Review Panel will hold a meeting from 8:30 a.m. to 5 p.m. on May 15 and 16, 1975, in Rm. 1214 at 1800 G Street NW., Washington, D.C. 20550.

The purpose of this Panel is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects. This Panel functions in accordance with the Federal Advisory Committee Act, Pub. L. 92–463.

This meeting will not be open to the public because the Panel will be reviewing, discussing, and evaluating individual research proposals. Also, these proposals contain information of a proprietary or confidential nature, including technical information, financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are within the exemptions of 5 U.S.C. 552 (b) (4), (5) and (6). The closing of this meeting is in accordance with the determination by the Director of the National Science Foundation dated February 21, 1975, pursuant to the provisions of section 10(d) of Pub. L. 92–463.

For further information about this Panel, please contact Mr. Feenan D. Jennings, Head, International Decade of Ocean Exploration, Rm. 1214, National Science Foundation, Washington, D.C. 20550, telephone 202/632–7356.

Dated: April 23, 1975.

FRED K. MURAKAMI,
Committee Management Officer.

[FR Doc.75–11108 Filed 4–28–75;8:45 am]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS' SUBCOMMITTEE ON WASHINGTON PUBLIC POWER SUPPLY SYSTEM NUCLEAR POWER PLANTS 1 & 4 (WPPSS 1 & 4)

Meeting

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards' Subcommittee on WPPSS 1 & 4 will hold a meeting on May 16, 1975 in the Columbia Room, Hanford House Hotel, Richland, Washington. The purpose of this meeting will be to develop information for consideration by the ACRS in its review of the application of the Washington Public Power Supply System for a permit to construct these nuclear power plants. The facility will be located about 2.5 miles west of the Columbia River on the Energy Research and Development Administration's Hanford Reservation. The plant is approximately 10 miles northeast of the city of Richland, Washington.

The agenda for the subject meeting shall be as follows:

Friday, May 16, 1975, 9:00 a.m. until the conclusion of business. The Subcommittee will hear presentations by representatives of the NRC Staff and the Washington Public Power Supply System (WPPSS) and will hold discussions with these groups pertinent to its review of the application of the WPPSS for a permit to construct the WPPSS 1 & 4 Nuclear Power Plants.

In connection with the above agenda item, the Subcommittee will hold Executive Sessions, not open to the public at 8:30 a.m. and at the end of the day to consider matters relating to the above application. These sessions will involve an exchange of opinions and discussion of preliminary views and recommendations of Subcommittee Members and internal deliberations for the purpose of formulating recommendations to the ACRS.

In addition to the Executive Sessions, the Subcommittee may hold closed sessions with representatives of the NRC Staff and Applicant for the purpose of discussing privileged information concerning plant physical security and other matters related to plant design, construction, and operation, if necessary.

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that the above-noted Executive Sessions will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b) and that a closed session may be held, if necessary, to discuss certain documents and information which are privileged and fall within exemption (4) of 5 U.S.C. 552(b). Further, any non-exempt material that will be discussed during the above closed sessions will be inextricably intertwined with exempt material, and no further separation of this material is considered practical. It is essential to close such portions of the meeting to protect the free interchange of internal views, to avoid undue interference with agency or Subcommittee operation, and to avoid public disclosure of proprietary information.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by mailing 25 copies thereof, postmarked no later than May 9, 1975 to the Executive Secretary, Advisory Committee on Reactor Safeguards, Nuclear Regulatory Commission, Washington, D.C. 20555. Such comments shall be based upon the Preliminary Safety Analysis Report for this facility and related documents on file and available for public inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee between the hours of 10 a.m. and 11 a.m. on May 16.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for opportunity to present oral statements, and the time alloted, can be obtained by a prepaid telephone call on May 13 to the Office of the Executive Secretary of the Committee (telephone 202/634-1413, Mr. R. Muller) between 8:15 a.m. and 5 p.m., Eastern Time.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) Persons desiring to attend portions of the meeting where proprietary information, other than plant security information, is to be discussed may do so by providing to the Executive Secretary, Advisory Committee on Reactor Safeguards, 1717 H Street NW., Washington, D.C. 20555, 7 days prior to the meeting, a copy of an executed agreement with the owner of the proprietary information to safeguard this material.

(i) A copy of the transcript of the open portion of the meeting will be available for inspection on or after May 20, 1975 at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and within approximately nine days at the Richland Public Library, Swift and Northgate Streets, Richland, Washington, 99352. Copies of the transcript may be reproduced in the Public Document Room or may be obtained from Ace Federal Reporters, Inc., 415 Second Street NE., Washington, D.C. 20002 (telephone 202/547-6222) upon payment of appropriate charges.

(j) On request, copies of the minutes of the meeting will be made available for inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 after August 18, 1975. Copies may be obtained upon payment of appropriate charges.

Dated: April 23, 1975.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.75-11145 Filed 4-28-75;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on April 24, 1975 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received: the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C.

20503, (202–395–4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service:
Special Seed Acreage Survey—Alaska, single-time, seed producers, Hulett, D. T., 395–4730.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institute of Education:
Local Advisory Panel Questionnaire, NIE 114, semi-annually, participants in educational satel. demonstrations, Planchon; P., 395–3898.

EXTENSIONS

SELECTIVE SERVICE SYSTEM

Availability of Registrants, SSS 117, monthly, Marsha Traynham, 395–4529.
Monthly Report of Availability of Class I–O Registrants, SSS 157, monthly, Government agencies, Marsha Traynham, 395–4529.
Transfer for Armed Forces Examination, SSA–230, on occasion, SSS registrants, Marsha Traynham, 395–4529.
Report of Oral Information (Registrant Status Change), SSS 119, on occasion, registrants, Marsha Traynham, 395–4529.
Application for Voluntary Induction, SSS–254, on occasion, individuals, Marsha Traynham, 395–4529.
"Induction and Medical Determinations" (excluding medical specialist), SSS 205, monthly, registrants, Marsha Traynham, 395–4529.
Application of Volunteer for Alternate Service, SSS 151, on occasion, I–O registrants, Marsha Traynham, 395–4529.

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service: Sheep and Lamb Feeder Inquiries, quarterly, sheep producers, Marsha Traynham, 395–4529.

DEPARTMENT OF DEFENSE

Defense Supply Agency: Request for Assignment of Federal Supply Code for Manufacturer, on occasion, Marsha Traynham, 395–4529.
Defense Supply Agency: Sloath Control Record, on Order but Undelivered Report and Report of Unordered Product, DD 1886, Monthly, Marsha Traynham, 395–4529.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.75–11297 Filed 4–28–75;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

AMERICAN AGRONOMICS CORP.

Suspension of Trading

APRIL 22, 1975.

The common stock of American Agronomics Corp. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of American Agronomics Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from April 23, 1975 through May 2, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75–11176 Filed 4–28–75;8:45 am]

[File No. 500–1]

BBI, INC.

Suspension of Trading

APRIL 23, 1975.

The common stock of BBI, Inc., being traded on the American Stock Exchange and the Philadelphia-Baltimore-Washington Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of BBI, Inc. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from April 24, 1975 through May 3, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75–11177 Filed 4–28–75;8:45 am]

[File No. 500–1]

GENERAL REFRACTORIES CO.

Suspension of Trading

APRIL 22, 1975.

The capital stock of General Refractories Company being traded on the New York and Philadelphia-Baltimore-Washington Stock Exchanges pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of General Refractories Company being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange is suspended, for the period from 11:30 a.m. (e.d.t.) on April 22, 1975 through midnight (e.d.t.) on May 1, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75–11178 Filed 4–28–75;8:45 am]

[File No. 500–1]

ROYAL PROPERTIES INC.

Suspension of Trading

APRIL 22, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Royal Properties Incorporated being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from April 23, 1975 through May 2, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75–11179 Filed 4–28–75;8:45 am]

[File No. 500–1]

WINNER INDUSTRIES, INC.

Suspension of Trading

APRIL 22, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Winner Industries, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from April 23, 1975 through May 2, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75–11180 Filed 4–28–75;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 1130]

WISCONSIN

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of March, because of the effects of a certain disaster, damage resulted to property located in the State of Wisconsin;

Whereas, the Small Business Administration has investigated and received reports of other investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act, as amended:

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Jefferson, Ozaukee and Waukesha Counties and adjacent affected areas, suffered damage or destruction resulting from flooding beginning on or about March 20, 1975. Adjacent areas include only counties within the state for which the declaration is made and do not extend beyond state lines.

OFFICE

Small Business Administration, District Office, 122 West Washington Avenue, Room 713, Madison, Wisconsin 53703.

2. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to June 16, 1975. EIDL applications will not be accepted subsequent to January 16, 1976.

Dated: April 16, 1975.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.75-11094 Filed 4-28-75;8:45 am]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

LABOR RESEARCH ADVISORY COUNCIL COMMITTEES

Meetings and Agenda

The regular spring meetings of committees of the Labor Research Advisory Council will be held on May 20, 21 and 22 in Room 4454, General Accounting Office Building, 441 G Street NW., Washington, D.C.

The Labor Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of union research directors and staff members.

The schedule and agenda of the meetings are as follows:

TUESDAY, MAY 20

9:30 a.m.—Committee on Manpower and Employment.

1. Program Proposals in 1976 Budget Submission.
2. Local area unemployment estimates.
3. Analysis of the Current Employment-Unemployment Situation.
4. Special Studies.
5. Net Spendable Earnings—Current status.
6. Improvement in Bureau's Manpower Supply Estimates.

WEDNESDAY, MAY 21

1:30 p.m.—Committee on Occupational Health and Safety Statistics.

1. Discussion of Alternative Questions for Inclusion in the Varying Section of the 1975 Survey.
2. Matters Relating to Recordkeeping:
   a. Status of proposal for employee access to information on the log.
   b. Discussion of desirability of issuing guidelines for distinguishing between first aid and medical treatment.
   c. Demonstration of audio aid on recordkeeping.
3. Research Activities.
4. State Programs—Grants and Performance.

WEDNESDAY, MAY 21

1:30 p.m.—Committee on Foreign Labor and Trade.

Description of developments, current status, and organizational arrangements of BLS programs relating to foreign labor and trade:

1. International comparison of productivity, labor costs and employment.
2. The trade statistics monitoring system.
3. Import-Export Price Indexes.
4. Training Foreign Statisticians.

WEDNESDAY, MAY 21

3:30 p.m.—Committee on Productivity, Technology and Growth.

1. Brief Report on Status of Selected Productivity Programs.
2. Economic Growth:
   a. Interim Revisions in the 1980 and 1985 projections.
   b. Manpower Impact of Federal programs.

THURSDAY, MAY 22

9:30 a.m.—Committee on Wages and Industrial Relations.

1. Review of work in progress.
2. Review of the quarterly release on bargaining settlements.
3. Review of 1975-76 studies relating to Fair Labor Standards Act.
4. Preview of the 1974 union membership study.
5. Union wage scales.
6. Area wage studies: Expanding the scope of these studies to all industries, including government.
7. Employment Cost Index.

THURSDAY, MAY 22

1:30 p.m.—Committee on Prices and Living Conditions.

1. Developments in the Consumer Price Index Revision Program:
   a. The Selection of the Item Sample.
   b. The Selection of the Outlet Sample.
   c. The Techniques of Price Collection.
   d. The Treatment of Housing Services for Homeowners.
2. Progress Report on the International Price Competitiveness Program.

The meetings are open. It is suggested that persons planning to attend as observers contact Joseph P. Goldberg, Executive Secretary, Labor Research Advisory Council on (Area Code 202) 961-2247.

Signed at Washington, D.C. this 22d day of April 1975.

JULIUS SHISKIN,
Commissioner of Labor Statistics.

[FR Doc.75-11100 Filed 4-28-75;8:45 am]

Occupational Safety and Health Administration

STANDARDS ADVISORY COMMITTEE ON COKE OVEN EMISSIONS

Change in Location of Meeting

The May 20-22, 1975, meeting of the Standards Advisory Committee on Coke Oven Emissions, announced in the FEDERAL REGISTER on Monday, April 14, 1975, (40 FR 16735) will be held in the South Scott Room of the Gramercy Inn, 1616 Rhode Island Avenue, NW., Washington, D.C., instead of being held at the previously announced location. The meeting is scheduled to begin at 10 a.m. on May 20, and will continue at 9 a.m. on May 21 and 22 in the same location.

In all other respects the details of the April 14, 1975, notice of meeting remain the same. Any questions may be addressed to:

Ms. Jeanne Ferrone
Committee Management Office
Occupational Safety and Health Administration
U.S. Department of Labor
1726 M Street NW., Room 200
Washington, D.C. 20210
Phone 202-961-2248

Signed at Washington, D.C. this 22nd day of April 1975.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.75-11101 Filed 4-28-75;8:45 am]

Office of the Secretary

[TA-W-12]

ALGY SHOES, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On April 21, 1975 the Department of Labor received a petition filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Shoe Workers of America, AFL-CIO, on behalf of the workers and former workers of Algy Shoes, Incorporated, Everett, Massachusetts (TA-W-12). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with footwear for women produced by Algy Shoes, Incorporated, or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the

firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 9, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave. NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 22nd day of April 1975.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.75-11102 Filed 4-28-75;8:45 am]

[TA-W-13]

SCHWARTZ AND BENJAMIN, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On April 21, 1975 the Department of Labor received a petition filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Shoe Workers of America, AFL-CIO, on behalf of the workers and former workers of Schwartz and Benjamin, Incorporated, Lynn, Massachusetts (TA-W-13). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with footwear for women produced by Schwartz and Benjamin, Incorporated, or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 9, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave. NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 22nd day of April 1975.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.75-11103 Filed 4-28-75;8:45 am]

[TA-W-9]

VULCAN CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On April 16, 1975 the Department of Labor received a petition filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of the Lawrence, Massachusetts plant of Vulcan Corporation, Cincinnati, Ohio (TA-W-9). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with plastic heels, poly vinyl chloride and urethane soles for women's footwear produced by Vulcan Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in the sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which such total or partial separations began or threatened to begin and the subdivision of the firm involved. A worker group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 9, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 17th day of April, 1975.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.75-11104 Filed 4-28-75;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 752]

ASSIGNMENT OF HEARINGS

APRIL 24, 1975.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 124004 Sub 28, Richard Dahn, Inc. now being assigned July 22, 1975, at Chicago, Ill. in a hearing room to be later designated.

MC 43963 Sub 8, Chief Truck Lines, Inc., now being assigned July 23, 1975, (1 day), at Chicago, Ill. in a hearing room to be later designated.

MC 41404 Sub 118, Argo-Collier Truck Lines Corporation, now being assigned July 24, 1975 (2 days), at Chicago, Ill. in a hearing room to be later designated.

MC 128030 Sub 90, The Stout Trucking Co., Inc., now being assigned July 28, 1975 (2 days), at Chicago, Ill. in a hearing room to be later designated.

MC 124170 Sub 47, Frostways, Inc. and MC 124170 Sub 48, Frostways, Inc., now being assigned July 30, 1975 (3 days), at Chicago, Ill. in a hearing room to be later designated.

MC 103926 Sub 36, W. T. Mayfield Sons Trucking Co., now being assigned June 17, 1975 (1 day), at Miami, Florida; in a hearing room to be designated later.

MC 140396 Sub 1, Avtec Services, Inc., now being assigned June 18, 1975 (2 days), at Miami, Florida; in a hearing room to be designated later.

MC 107107 Sub 440, Alterman Transport Lines, Inc., now being assigned June 20, 1975 at Miami, Florida; in a hearing room to be designated later.

MC 140094, Latin Express Service, Inc., now being assigned June 23, 1975 (1 week), in Miami, Florida; in a hearing room to be designated later.

MC 139721, All World Travel, Inc., now assigned May 6, 1975 at Philadelphia, Pa., is postponed to June 10, 1975 (3 days), in Room 3240 William J. Green, Jr. Federal Building, 600 Arch St., Philadelphia, Pa.

MC F 12336, Atl, Inc.—Purchase—Associated Truck Lines, Inc., now assigned May 20, 1975 at the Offices of the Interstate Commerce Commission, Washington, D.C., is cancelled, and transferred to Modified Procedure.

MC 115162 Sub 303, Poole Truck Lines, Inc., application dismissed.

Docket No. AB-71, Baltimore and Annapolis Railroad Company Abandonment of Operations Between Clifford Junction, Baltimore City and Annapolis, in Baltimore and Anne Arundel Counties Maryland, has been continued to May 20, 1975 (2 days) at Baltimore, Maryland; in Room 207, Appraisers Stores Building, 103 S. Gay Street.

I&SM 28454, Guaranteed Service, Pacific Intermountain Express, now being assigned June 11, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

I&S 9037, Advancement of Charges, Freight Forwarders Tariff Bureau, Inc., now being assigned June 10, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

I&S 9034, Coal, Harris, West Virginia to Hyco, North Carolina now being assigned July 21, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. 35533 Sub 4, Petroleum Products, Southwest and Midwest, Williams Pipe Line, and FSA 42952, Pipeline Rates—Petroleum Products From the Southwest, now being assigned June 24, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-11201 Filed 4-28-75;8:45 am]

[AB 18 (Sub-No. 11)]

CHESAPEAKE AND OHIO RAILWAY CO.

Abandonment Car Float Service Between Newport News and Norfolk, Virginia

APRIL 25, 1975.

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available to the public upon request; and

It appearing, That no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Quality Act of 1969, 42 U.S.C. 4321 et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in the Cities of Norfolk, Portsmouth, Chesapeake, Suffolk, and Virginia Beach, Virginia, on or before May 8, 1975 and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 17th day of April, 1975.

By the Commission, Commissioner Tuggle.

[SEAL] ROBERT L. OSWALD,
Secretary.

The Interstate Commerce Commission hereby gives notice that by order dated April 17, 1975, it has been determined that the proposed abandonment by the Chesapeake and Ohio Railway Company of its car float service between Newport News and Brooke Avenue Yard, Norfolk, a distance of approximately 13 miles, and approximately 2.42 miles of track in Brooke Avenue Yard, Norfolk, all in Norfolk County, Va., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental effects of the proposed action are insignificant because (1) nearby (Newport News-Sewell Point) car float service will continue to be available upon abandonment at Brooke Avenue Yard, (2) rail traffic affected by the transfer of operations will be minimal, and (3) degradation of the affected area's environment will be minimal, if any.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-2086.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before May 23, 1975.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

[FR Doc.75-11203 Filed 4-28-75;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

APRIL 24, 1975.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General rules of practice (49 CFR 1100.40) and filed on or before May 14, 1975.

FSA No. 42979—*Joint Water-Rail Container Rates—Seatrain International, S. A.* Filed by Seatrain International, S. A., (No. 17), for itself and interested rail carriers. Rates on general commodities, from rail terminals on the U.S. Pacific Coast, to ports in the United Kingdom and Continental Europe. Grounds for relief—Water competition.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-11197 Filed 4-28-75;8:45 am]

[AB 35 (Sub-No. 1)]

LOS ANGELES AND SALT LAKE RAILROAD COMPANY AND UNION PACIFIC RAILROAD CO.

Abandonment Portion of Anaheim Branch Line, Orange County, California

APRIL 25, 1975.

Upon consideration of the record in the above-entitled proceeding and of a staff-prepared environmental threshold assessment survey which is available to the public upon request; and

It appearing, That no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Orange County, California, on or before May 8, 1975, and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 17th day of April, 1975.

By the Commission, Commissioner Tuggle.

[SEAL] ROBERT L. OSWALD,
Secretary.

The Interstate Commerce Commission hereby gives notice that by order dated April 17, 1975, it has been determined that the proposed abandonment of the .71 mile line of the Los Angeles and Salt Lake Railroad Company and the Union Pacific Railroad Company, all in La Habra, Orange County, California, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment with the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, the environmental effects of the proposed abandonment are considered insignificant because no traffic movements would be affected since the line is currently not utilized, no development plans are dependent on the

continuation of the line, and no major ecological, or other environmental impacts are involved. In addition, abandonment is consistent with La Habra's plans to incorporate a portion of the line and a Spanish style station into Portola Park.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-2086.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before May 23, 1975.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

[FR Doc.75-11202 Filed 4-28-75;8:45 am]

[Notice No. 47]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

APRIL 24, 1975.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67, (49 CFR 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant; or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field offices to which protests are to be transmitted.

No. MC 107295 (Sub-No. 762TA), filed April 18, 1975. Applicant: PRE-FAB TRANSIT CO., 100 South Main St., Farmer City, Ill. 61842. Applicant's representative: Duane Zehr (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asbestos building panels, shingles, and siding*, from Manville, N.J., to points in Illinois, Iowa, and Nebraska, for 180 days. Supporting shipper: Carl E. Arthur, Manager of Architectural Products, Stetson Building Products, 510 S.W. 9th, Des Moines, Iowa 50309. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 112617 (Sub-No. 324TA), filed April 17, 1975. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cupric chloride*, in bulk, in tank vehicles, from Jasper, Ind., to points in Cleveland, Ohio and Elyria, Ohio, for 180 days. Supporting shipper: Dave Dodson, Buyer, Kimball Piano and Organ Co., 1038 E. 15th Street, Jasper, Ind. 47546. Send protests to: Elbert Brown, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, 426 Post Office Bldg., Louisville, Ky. 40202.

No. MC 112617 (Sub-No. 325TA), filed April 17, 1975. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, in bulk, in tank vehicles, from Sturgis, Ky., to points in Illinois, Indiana, and Kentucky, for 180 days. Supporting shipper: Edward O'Nan, Circle "O" Farm Services, Sturgis, Ky. 42459. Send protests to: Elbert Brown, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, 426 Post Office Bldg., Louisville, Ky. 40202.

No. MC 113666 (Sub-No. 91TA) (Correction), filed April 2, 1975, published in the FEDERAL REGISTER issue of April 16, 1975, and republished as corrected this issue. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, Pa. 16229. Applicant's representative: William H. Shawn, 1730 M Street, NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractories, refractory products, materials, and supplies used in the production and installation of refractory products, and brick*, from points in Wellsville, St. Louis and Mexico, Mo., Somerset, Pa., and Woodville, Ohio, to ports of entry on the International Boundary line between the United States and Canada, located in Maine, New Hampshire, Vermont, New York, Michigan, and Minnesota, restricted to transportation of the commodities in foreign commerce, for 180 days. Supporting shippers: Wellsville Firebrick Company, Wellsville, Mo. 63384. Burlington Steel Division of Slater Steel Industries, Ltd. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Avenue, Pittsburgh, Pa. 15222. The purpose of this republication is to include Burlington Steel Division of Slater Steel Industries, Ltd., as a supporting shipper.

No. MC 116325 (Sub-No. 69TA), filed April 18, 1975. Applicant: JENNINGS BOND, doing business as BOND ENTERPRISES, P.O. Box 8, Lutesville, Mo. 63762. Applicant's representative: Jennings Bond (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pallets and lumber*, from Macks Creek, Mo., to points in Illinois and Indiana, for 180 days. Supporting shipper: Chet's Manufacturing Company, Macks Creek, Mo. 65786. Send protests to: J. P. Werthmann, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 135884 (Sub-No. 7TA), filed April 18, 1975. Applicant: STEVE CALDWELL, Route 1, Box 36, Adams, Oreg. 97810. Applicant's representative: Lawrence V. Smart, Jr., 419 N.W. 23d Avenue, Portland, Oreg. 97210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned and/or packaged, baby formula, soy beans, powdered soy milk and vegetable protein*, from points in Knox County, Ohio to points in Hayward and Riverside, Calif., and Portland, Oreg., for 180 days. Supporting shipper: General Conference Corporation of Seventh-Day Adventists, doing business as Loma Linda Foods, 11503 Pierce Street, Riverside, Calif. 92505. Send protests to: W. J. Huetig, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 136669 (Sub-No. 5TA), filed April 17, 1975. Applicant: PROCESSED BEEF EXPRESS, INC., P.O. Box 515, Dakota City, Nebr. 68731. Applicant's representative: John F. Roeser, Jr. (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, from Amarillo, Tex., to points in Emporia, Kans., for 180 days. Supporting shipper: Iowa Beef Processors, Inc., John K. Webber, Supervisor, Transportation Research, P.O. Box 515, Dakota City, Nebr. 68731. Send protests to: Carroll Russell, District Supervisor, Suite 620 Union Pacific Plaza, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 136818 (Sub-No. 9TA), filed April 14, 1975. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, Phoenix, Ariz. 85041. Applicant's representative: Donald E. Fernaays, Suite 320, 4040 East McDowell Road, Phoenix, Ariz. 85008. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polyethylene plastic granules*, from Plaquemine, La., to points in Malad City, Idaho, and points in Fallon, Nev., for 180 days. Supporting shipper: Oneida Manufacturing Company, P.O. Box 147, Malad City, Idaho 83252. Send protests to: Andrew V. Baylor, District Supervisor, Interstate

Commerce Commission, Room 3427 Federal Bldg., 230 N. First Avenue, Phoenix, Ariz. 85025.

No. MC 138884 (Sub-No. 2TA), filed April 17, 1975. Applicant: CONDOR CORPORATION, R.F.D. No. 2, Dixfield, Maine 04224. Applicant's representative: Peter L. Murray, 30 Exchange Street, Portland, Maine 04111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood furniture stock, uncrated*, from Shipper's Plant at Andover, Maine, to Customers of Shipper, located in the States of New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, and North Carolina, for 180 days. Supporting shipper: Andover Wood Products, Box 38, Andover, Maine 04216. Send protests to: Donald G. Weiler, District Supervisor, Room 305, 76 Pearl Street, Portland, Maine 04111.

No. MC 139887 (Sub-No. 2TA), filed April 17, 1975. Applicant: G. E. BAXTER TRANSPORT, INC., 1521 Fifth Avenue, Los Angeles, Calif. 90019. Applicant's representative: David P. Christianson, 606 South Olive Street, Suite 825, Los Angeles, Calif. 90014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* (other than those designed to be drawn by passenger automobiles), *chassis, cargo containers, and trailer parts and articles used in the manufacture of trailers when moving in trailers of shippers*, between points in Lycoming County, Bucks County, Columbia County, and Carbon County, Pa., Orange County, N.Y., and Putnam County, W. Va., on the one hand, and on the other, points in the United States, including Alaska but excluding Hawaii, for 180 days. Supporting shipper: Strick Corporation, 13231 Lakeland Road, Santa Fe Springs, Calif. 90670. Send protests to: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Room 1312 Federal Bldg., 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 140535 (Sub-No. 3TA), filed April 17, 1975. Applicant: RAYMOND ADAMSON, P.O. Box 42, Gainesville, Mo. 65655. Applicant's representative: Turner White, 910 Plaza Towers, 1736 East Sunshine, Springfield, Mo. 65804. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic products*, from Gainesville, Mo., to points in Shreveport, La., Madison, Wisconsin; Little Rock, Ark.; and Bastrop, Tex. for 180 days. Supporting shipper: Bryant Plastics, Inc., Gainesville, Mo. 65655. Send Protests to: John V. Barry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 600 Federal Office Bldg., 911 Walnut Street, Kansas City, Mo. 61406.

No. MC 140813 (Sub-No. 1TA), filed April 16, 1975. Applicant: MOUNTAIN SUN TRANSPORT, INC., Rt. 1, Box 282, Morgan, Utah 84050. Applicant's representative: Elwood Zaugg (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Flour, bran, shorts, milled grain products, prepared cereals, and prepared poultry and animal feeds*, from points in Utah to statewide service in the following states: California, Arizona, Nevada, Oregon, Washington, Idaho, Wyoming, Montana, Colorado, and New Mexico, for 180 days. Supporting shipper: Gilt Edge Flour Mills, Inc., P.O. Box 161, Richmond, Utah 84333. Send protests to: Lyle D. Helfer, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5301 Federal Bldg., 125 South State Street, Salt Lake City, Utah 84138.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-11198 Filed 4-28-75;8:45 am]

[Notice No. 277]

MOTOR CARRIER TRANSFER PROCEEDINGS

APRIL 29, 1975.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-75820. By application filed April 21, 1975, JOHNSON BROTHERS TRUCKING CO., 501 E. Spring St., Herndon, Va. 22070, seeks temporary authority to lease the operating rights of BARBEE HAULING, INC., 4201 Enterprise Rd., Mitchellville, Md. 20716, under section 210a(b). The transfer to JOHNSON BROTHERS TRUCKING CO., of the operating rights of BARBEE HAULING, INC., is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-11199 Filed 4-28-75;8:45 am]

[Notice No. 276]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

APRIL 29, 1975.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before May 19, 1975. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-75343. By order of April 11, 1975, the Motor Carrier Board, on reconsideration, approved the transfer to Pageant Tours and Leisure Tours, Inc., Salt Lake City, Utah, of License No. MC-12705 issued May 12, 1970, to Gary A. Mitchell, doing business as Pageant Bus Tours, Salt Lake City, Utah, authorizing the holder to engage in operations as a broker in connection with the transportation of passengers and their baggage, in special and charter operations, in round-trip all-expense tours, beginning and ending at points in Arizona and Idaho, and extending to points in Salt Lake County, Utah; beginning and ending at points in Sale Lake County, Utah, and extending to points in the United States, except points in Hawaii; and beginning and ending at points in Idaho, and extending to points in the United States, including Alaska, but excepting Hawaii. Don E. Hammill, Esq., 250 East Broadway, Suite 100, Salt Lake City, Utah 84111.

No. MC-FC-E75625. By order of April 8, 1975, the Motor Carrier Board approved the transfer to O'Donnell Movers, Inc., Lynn, Mass., of the operating rights in Certificate No. MC-4756 issued September 28, 1949, to John J. O'Donnell, doing business as John J. O'Donnell & Sons, Lynn, Mass., authorizing the transportation of household goods as defined by the Commission, between Lynn, Mass., and points in Massachusetts within 10 miles thereof, on the one hand, and, on the other, points in Connecticut, Maine, Massachusetts, New Hampshire, and Rhode Island, and those in the New York, N.Y., Commercial Zone as defined by the Commission. Morris J. Gordon, 60 Lewis Street, Lynn, Mass. 01902, attorney for applicants.

No. MC-FC-75710. By order entered 4.18.75, the Motor Carrier Board approved the transfer to John D. Tonkovich & Son, Inc., Shadyside, Ohio, of the operating rights set forth in Certificates Nos. 123618 and MC-123618 (Sub-No. 1), issued May 23, 1962, and March 6, 1973, respectively, to Kenneth Pedeleose and Robert Pedeleose, doing business as Pedeleose Brothers, Bellaire, Ohio, authorizing the transportation of cement block, sand and gravel, from Bellaire, Ohio, to Washington, Pa., and points within 15 miles thereof, and to points in West Virginia; and coal, from points in Belmont County, Ohio, to points in Marshall and Ohio Counties, W. Va. James Duvall, 2200 West Bridge St., P.O. Box 97, Dublin, Ohio 43017, attorney for applicants.

No. MC FC 5715. By order of April 9, 1975, the Motor Carrier Board approved the transfer to William R. Schulze, doing business as Pacific Moving and Storage Co., San Carlos, (Sub-No. 2) issued February 10, 1970, to Dwayne W. Hibbard,

doing business as Hibbard Moving and Storage Company, Redwood City, Calif., authorizing the transportation of used household goods, between points in Marin, Contra Costa, Alameda, San Mateo, Santa Clara, and San Francisco Counties, Calif. Robert J. Gallagher, 1776 Broadway, New York, N.Y. 10019, attorney for applicants.

No. MC FC 75749. By order entered April 3, 1975, the Motor Carrier Board approved the transfer to P & B General Storage Warehouse, Inc., New York, N.Y., of the operating rights set forth in Certificate No. MC-42364, issued March 18, 1958, to Kel-Mar Van Corp., New York, N.Y., authorizing the transportation of household goods, between New York, N.Y., on the one hand, and, on the other, points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and the District of Columbia; and household goods as defined by the Commission, between New York, N.Y., on the one hand, and, on the other points in Rhode Island. Harold Sacks, 19 West 44th St., New York, N.Y. 10036, attorney for applicants.

No. MC FC 75754. By order entered April 7, 1975, the Motor Carrier Board approved the transfer to Pete J. Kooyman, doing business as Pete Kooyman Trucking, Stockton, Calif., of the operating rights set forth in Certificate of Registration No. MC-99375 (Sub-No. 1), issued April 17, 1974, to Sacramento Freight Lines, Inc. (James E. Cussen, Trustee in Bankruptcy), Sacramento, Calif., evidencing a right to engage in transportation in interstate or foreign commerce of numerous specified commodities, between specified points in California. Raymond A. Greene, Jr., 100 Pine St., Suite 2550, San Francisco, Calif. 94111, attorney for applicants.

No. MC FC 75757. By order of April, 1975, the Motor Carrier Board approved the transfer to Coronado Trucking Company, Inc., Edgewater, Fla., of the operating rights in Permit No. MC-136273 issued June 13, 1973, to Kenneth G. May and Orville L. Howard, a partnership, doing business as Coronado Trucking Co., Edgewater, Fla., authorizing the transportation of paints and paint materials, from Edgewater, Fla., to all points in 19 states, and materials and supplies used in the manufacture, production, and distribution of paints and paint materials, from all points in 11 states to Edgewater, Fla., under continuing contract with Coronado Paint Co., of Edgewater, Fla. William J. Monheim, 15942 Whittier Boulevard, Whittier, Calif. 90609, registered practitioner for applicants.

No. MC FC 75763. By order of April 18, 1975 the Motor Carrier Board approved the transfer to St. Louis Freight Lines, Inc., St. Louis, Mich., of the operating rights in Certificates No. MC 117165 (Sub-No. 5), MC 117165 (Sub-No. 10), MC 117165 (Sub-No. 13), MC 117165 (Sub-No. 16), MC 117165 (Sub-No 20), MC 171165 (Sub-No. 21), MC 117165 (Sub No. 22), MC 117165 (Sub-No. 25), MC 117165 (Sub-No. 26), MC 117165 (Sub-No. 27), MC 117165 (Sub-No. 28), MC 117165 (Sub-No. 31), MC 117165 Sub-No. 33) and MC 117165 (Sub-No. 35) issued July 23, 1968, January 26, 1968, January 25, 1968, January 25, 1968, May 28, 1968, January 26, 1968, January 26, 1968, July 30, 1968, June 20, 1969, February 12, 1971, February 18, 1971, June 7, 1971, December 29, 1971 and August 31, 1972 respectively to C. J. Davis, doing business as St. Louis Freight Lines, St. Louis, Mo., authorizing the transportation of various commodities from and to specified points and areas in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. Martin J. Leavitt, P.O. Box 400, Northville, Mich., 48167, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-11200 Filed 4-28-75;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES

APRIL 23, 1975.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission within 10 days from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 2304 (Sub-No. E2), filed March 6, 1975. Applicant: THE KAPLAN TRUCKING CO., 2900 Chester Ave., Cleveland, Ohio 44114. Applicant's representative: Mr. John P. McMahon, Columbus Center, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel* and *iron and steel products;* (1) between points in Monmouth, Morris, Essex, Passaic, Union, Somerset, Middlesex, Hudson, and Bergen Counties, N.J., points in New York, Pennsylvania, West Virginia, Ohio, points in that part of Michigan on and south of Michigan Highway 21, points in that part of Indiana on and north of U.S. Highway 30, and points in that part of Illinois on and north of Interstate Highway 80, on the one hand, and, on the other, points in Kentucky within 10 miles of the confluence of the Ohio and Licking Rivers at or near Covington, Ky. (Norwood and Lima, Ohio)*; (2) between points in that part of Ohio located on and east of a line beginning at Toledo, Ohio, thence along U.S. Highway 24 to junction U.S. Highway 127, thence along U.S. Highway 127 to junction U.S. Highway 33, thence along U.S. Highway 33 to junction U.S. Highway 68, thence along U.S. Highway 68 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 23, thence along U.S. Highway 23 to the Ohio-Kentucky State line, on the one hand, and, on the other, points in Illinois on and north of Interstate Highway 70 (Lima, Ohio)*.

(3) Between points in that part of Ohio located on and west of a line beginning at Cleveland, Ohio, thence along U.S. Highway 42 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 23, thence along U.S. Highway 23 to the Ohio-Michigan State line, on the one hand, and, on the other, points in that part of Indiana located on, west, and south of a line beginning at Gary, Ind., thence along Interstate Highway 65 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 224, thence along U.S. Highway 224 to the Indiana-Ohio State line (Lima, Ohio)*; (4) from points in Monmouth, Morris, Essex, Passaic, Union, Somerset, Middlesex, Hudson, and Bergen Counties, N.J., New York, and Pennsylvania to Chicago and Peoria, Ill., Evansville and Connersville, Ind., Grand Rapids, Mich., points in Indiana on and north of U.S. Highway 40, and points in Michigan on U.S. Highway 10 between Detroit and Saginaw, Mich., including Detroit and Saginaw (Salem, Ohio)*; (5) from points in that part of Ohio located on and south of a line beginning at the Pennsylvania-Ohio State line, thence along Ohio Highway 5 to junction Ohio Highway 44, thence along Ohio Highway 44 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction Interstate Highway 77, thence along Interstate Highway 77 to junction U.S. Highway 250, thence along U.S. Highway 250 to the Ohio-West Virginia State line and points in West Virginia on and north of Interstate Highway 70 to points in that part of Indiana on and north of a line beginning at the Ohio-Indiana State line, thence along Indiana Highway 67 to junction Indiana Highway 18, thence along Indiana Highway 18 to the Indiana-Illinois State line, and Chicago and Peoria, Ill., Grand Rapids, Mich., and points in Michigan on U.S. Highway 10, between Detroit and Saginaw, Mich., including Detroit and Saginaw (Salem, Ohio)*;

(6) From Chicago, Ill., to points in Pennsylvania, New York, points in West

Virginia on and north of U.S. Highway 50, and points in Monmouth, Morris, Essex, Passaic, Union, Somerset, Middlesex, Hudson, and Bergen Counties, N.J. (Salem, Ohio)*; (7) between Baltimore, Md., on the one hand, and, on the other, points in that part of Indiana located on and west of Gary, Ind., thence along Interstate Highway 65 to junction U.S. Highway 24, thence along U.S. Highway 24 to the Indiana-Illinois State line and points in that part of Illinois located on and north of a line beginning at the Indiana-Illinois State line, thence along U.S. Highway 24 to junction Interstate Highway 55, thence along Interstate Highway 55 to the Illinois-Missouri State line, restricted to the transportation of commodities which, because of size or weight, require the use of special equipment, where such transportation is performed on ordinary vehicular equipment, and special equipment is provided for loading and unloading and the loading and unloading is performed by the consignor or consignee, or both (Lima, Ohio, and Philadelphia, Pa.)*; (8) between Wilmington, Del., on the one hand, and, on the other, points in Indiana, Illinois, and points in Michigan on and south of Michigan Highway 21, restricted to the transportation of commodities which, because of size or weight, require the use of special equipment, where such transportation is performed on ordinary vehicular equipment, and special equipment is provided for loading and unloading and the loading and unloading is performed by the consignor or consignee, or both (Lima, Ohio, or Philadelphia, Pa.)*;

(9) Between points in that part of New Jersey on and south of New Jersey Highway 33, on the one hand, and, on the other, points in that part of Pennsylvania located on and south of a line beginning at the New Jersey-Pennsylvania State line, thence along Interstate Highway 76 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line, points in that part of New York on and west of Interstate Highway 81, points in that part of West Virginia located on and north of a line beginning at the Ohio-West Virginia State line, thence along U.S. Highway 50 to junction Interstate Highway 79, thence along Interstate Highway 79 to junction Interstate Highway 64, thence along Interstate Highway 64 to the West Virginia-Kentucky State line, points in Michigan on and south of Michigan Highway 21, and points in Ohio, Indiana, and Illinois, restricted to the transportation of commodities which, because of size or weight, require the use of special equipment, where such transportation is performed on ordinary vehicular equipment, and special equipment is provided for loading and unloading and the loading and unloading is performed by the consignor or consignee, or both (Lima, Ohio, or Philadelphia, Pa.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 2304 (Sub-No. E3), filed March 6, 1975. Applicant: THE KAPLAN TRUCKING CO., 2900 Chester Ave., Cleveland, Ohio 44114. Applicant's representative: John P. McMahon, Columbus Center, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel mill products*, which because of size, weight, or bulk, require the use of flat-bottom equipment, or equipment having sides not exceeding 36 inches in height, minimum 10,000 pounds each from anyone consignor, from points in that part of Ohio located on and north of a line beginning at the Pennsylvania-Ohio State line, thence along Interstate Highway 76 to junction Interstate Highway 71, thence along Interstate Highway 71 to Cleveland, Ohio, points in Pennsylvania on and north of Interstate Highway 80, points in New York, and points in Monmouth, Morris, Essex, Passaic, Union, Somerset, Middlesex, Hudson, and Bergen Counties, N.J., to points in that part of Indiana on and north of U.S. Highway 40. The purpose of this filing is to eliminate the gateway of points in Cuyahoga County, Ohio.

No. MC 5470 (Sub-No. E9), filed May 20, 1974. Applicant: TAJON, INC., Rural Delivery No. 5 P.O. Box 146, Mercer, Pa. 16137. Applicant's representative: Patrick McElligot, 918 Sixteenth Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pig iron, scrap metal, alloys, and silicon metals*, in dump vehicles, from Baltimore, Md., to points in Alabama on, north and west of a line beginning at the Alabama-Georgia border, thence along Interstate Highway 85 to Montgomery, thence along U.S. Highway 331 to the Alabama-Florida border, Arkansas, Louisiana, Mississippi, Missouri, and points in Tennessee on and west of U.S. Highway 127. The purpose of this filing is to eliminate the gateway of that part of Ohio on and west of a line beginning at the Kentucky-Ohio State line and extending along U.S. Highway 23 to Waldo, Ohio, thence along Ohio Highway 98 to Bucyrus, Ohio, thence along Ohio Highway 4 to Sandusky, Ohio.

No. MC 5470 (Sub-No. E12), filed May 20, 1974. Applicant: TAJON, INC., Rural Delivery No. 5, P.O. Box 146, Mercer, Pa. 16137. Applicant's representative: Patrick McElligot, 918 Sixteenth Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pig iron, scrap metals, alloys, silicon metals, and ores*, in dump vehicles, between points in Arkansas, Louisiana, Mississippi (except ores from and to points in Tishomingo County), Missouri, points in Tennessee on and west of a line beginning at the Tennessee-Alabama border, thence north on U.S. Highway 431 to Fayetteville, Tenn., thence north on State Route 50 to State Route 55 to McMinnville, Tenn., thence north on State Route 42 to the Tennessee-Kentucky border (except ores from and to points in Wayne and Hardin Counties), and Wisconsin, on the one hand, and, on the other, points in Connecticut. The purpose of this filing is to eliminate the gateways of railhead in Ashtabula County (Conneaut), Ohio, and Erie, Pa.

No. MC 5470 (Sub-No. E13), filed May 20, 1974. Applicant: TAJON, INC., Rural Delivery No. 5 P.O. Box 146, Mercer, Pa. 16137. Applicant's representative: Patrick McElligot, 918 Sixteenth Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such bulk commodities as are susceptible of being unloaded by dumping, in dump trucks*, between Branchton, Pa., on the one hand, and, on the other, points in West Virginia (except points in Monongalia, Marion, Preston, Taylor, Tucker, and Grant Counties, W. Va., and points in West Virginia east of the aforenamed counties). The purpose of this filing is to eliminate the gateway of any railhead in Mahoning County (Youngstown), Ohio.

No. MC 5470 (Sub-No. E15), filed May 20, 1974. Applicant: TAJON, INC., Rural Delivery No. 5 P.O. Box 146, Mercer, Pa. 16137. Applicant's representative: Patrick McElligot, 918 Sixteenth Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferro-alloys*, in bulk, in dump vehicles, from any railhead in Braddock, Allegheny County, Pa. to points in West Virginia on and west of a line beginning at the West Virginia-Virginia State line extending along U.S. Highway 60 to Charleston, W. Va., thence north on Interstate Highway 77 to the West Virginia-Ohio border. The purpose of this filing is to eliminate the gateway of points in Ohio within the radius of 60 miles of such railhead (Van Coram, Ohio).

No. MC 5470 (Sub-No. E19), filed May 20, 1974. Applicant: TAJON, INC., Rural Delivery 5, P.O. Box 146, Mercer, Pa. 16137. Applicant's representative: Patrick McElligat, 918 E. Sixteenth St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pig iron, scrap metal, ores, silicon metals*, and *alloys*, in dump vehicles, between points in Arkansas, Missouri, and Wisconsin, on the one hand, and, on the other, points in Delaware. The purpose of this filing is to eliminate the gateways of a railhead in Conneaut (Ashtabula County), Ohio, and points in Pennsylvania within 60 miles of such railhead (Erie, Pa.).

No. MC 5470 (Sub-No. E20), filed May 20, 1974. Applicant: TAJON, INC., Rural Delivery 5, Box 146, Mercer, Pa. 16137. Applicant's representative: Patrick McElligat, 918 Sixteenth St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pig iron, scrap metal, alloys, ores*, and *silicon metals*, in dump vehicles, between points in Arkansas,

points in Alabama (except ores from and to points in Colbert and Lauderdale Counties), on and north of a line beginning at the Alabama-Georgia State line, thence along Interstate Highway 85 to Montgomery, thence along U.S. Highway 331 to the Alabama-Florida State line, Louisiana, Mississippi (except ores from and to points in Tishomingo County), Missouri, points in Tennessee on and west of Interstate Highway 65 (except ores from and to points in Wayne and Hardin Counties), and Wisconsin, on the one hand, and, on the other, points in Rhode Island. The purpose of this filing is to eliminate the gateways of a railhead in Conneaut (Ashtabula County), Ohio, and points in Pennsylvania within 60 miles of such railhead (Erie, Pa.).

No. MC 5470 (Sub-No. E21), filed May 20, 1974. Applicant: TAJON, INC., Rural Delivery 5, Box 146, Mercer, Pa. 16137. Applicant's representative: Patrick McEligat, 918 Sixteenth St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pig iron, alloys, silicon metals*, and *ores*, in dump vehicles, between points in Arkansas, Alabama (except ores from and to points in Colbert and Lauderdale Counties), Louisiana, Mississippi (except ores from and to points in Tishomingo County), Missouri, points in Tennessee on and west of a line beginning at the Tennessee-Alabama State line, thence along Interstate Highway 65 to the Tennessee-Kentucky State line (except ores from and to points in Wayne and Hardin Counties), and Wisconsin, on the one hand, and, on the other, points in Massachusetts, New Hampshire, and Vermont. The purpose of this filing is to eliminate the gateways of a railhead in Conneaut (Ashtabula County), Ohio, and points in Pennsylvania within 60 miles of such railhead (Erie, Pa.).

No. MC 5470 (Sub-No. E27), filed May 29, 1974. Applicant: TAJON, INC., Rural Delivery 5, Box 146, Mercer, Pa. 216137. Applicant's representative: Patrick McEligat, 918 Sixteenth St. NW., Washington, D.C. 20006. Authority sought to operate as a*common carrier*, by motor vehicle, over irregular routes, transporting: *Pig iron, scrap metal*, and *silicon metals*, in dump vehicles, between points in Wisconsin, on the one hand, and, on the other, points in Maryland (except Baltimore and points in its commercial zone as defined by the Commission). The purpose of this filing is to eliminate the gateways of a railhead in Conneaut (Ashtabula County), Ohio, and points in Pennsylvania within 60 miles of such railroad (Erie, Pa.).

No. MC 5470 (Sub-No. E30), filed May 29, 1974. Applicant: TAJON, INC., Rural Delivery 5, Box 146, Mercer, Pa. 216137. Applicant's representative: Patrick McEligat, 918 Sixteenth St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pig iron, scrap metal, alloys*, and *ores*, in dump vehicles, between points in Arkansas, Louisiana, Missouri, points in Tennessee on and west of Interstate Highway 65 (except ores from and to points in Wayne and Hardin Counties), and Wisconsin, on the one hand, and, on the other, points in New Jersey (except points in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, and Salem Counties). The purpose of this filing is to eliminate the gateways of a railhead in Conneaut (Ashtabula County), Ohio, and points in Pennsylvania within the radius of 60 miles of such railhead (Erie, Pa.).

No. MC 5470 (Sub-No. E31), filed May 29, 1974. Applicant: TAJON, INC., Rural Delivery 5, Box 146, Mercer, Pa. 16137. Applicant's representative: Patrick McEligat, 918 Sixteenth St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferro-alloys*, in bulk, in dump vehicles, from West Elizabeth, Pa., to points in Kentucky, Illinois, Indiana, Michigan, and points in West Virginia on, west, and south of a line beginning at the Virginia-West Virginia State line extending along U.S. Highway 19, thence along U.S. Highway 60 at a point near Lookout, W. Va., thence along U.S. Highway 60 to Charleston, thence along Interstate Highway 77 to the West Virginia-Ohio State line. The purpose of this filing is to eliminate the gateway of points in Ohio (Vancoram) within 60 miles of any railhead in Allegheny County (West Elizabeth), Pa.

No. MC 5470 (Sub-No. E34), filed May 29, 1974. Applicant: TAJON, INC., Rural Delivery 5, Box 146, Mercer, Pa. 16137. Applicant's representative: Patrick McEligat, 918 Sixteenth St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay, petroleum coke, coal tar pitch*, and *pitch prell*, in dump vehicles, between Follansbee, W. Va., on the one hand, and, on the other, Niagara Falls, N.Y. The purpose of this filing is to eliminate the gateways of any railhead in Ashtabula County (Conneaut), Ohio, and points in Pennsylvania within 60 miles of such railhead (Erie, Pa.).

No. MC 5470 (Sub-No. E40), filed May 29, 1974. Applicant: TAJON, INC., Rural Delivery 5, Box 146, Mercer, Pa. 16137. Applicant's representative: Patrick McEligat, 918 Sixteenth St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such bulk commodities* as are usually transported in dump trucks, between New Kensington, Pa., on the one hand, and, on the other, points in New York on and west of U.S. Highway 15 and on and north of Interstate Highway 90 (from Buffalo, N.Y., to junction Interstate Highway 90 and U.S. Highway 15). The purpose of this filing is to eliminate the gateways of the railhead of Butler (Butler County), Pa., and Ashtabula County, Ohio.

No. MC 5470 (Sub-No. E41), filed May 29, 1974. Applicant: TAJON, INC., Rural Delivery 5, Box 146, Mercer, Pa. 16137. Applicant's representative: Patrick McEligat, 918 Sixteenth St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pig iron, scrap metal, alloys*, and *ores*, in dump vehicles, between Arkansas, Alabama (except ores from and to points in Colbert and Lauderdale Counties), Louisiana, Mississippi (except ores from and to points in Tishomingo County), Missouri, points in Tennessee on and west of U.S. Highway 129 beginning at the Tennessee-North Carolina State line, thence north to Knoxville, Tenn., thence along Interstate Highway 75 to the Tennessee-Kentucky State line (except ores from and to points in Wayne and Hardin Counties), Rome and Atlanta, Ga., Tampa, and Tallahassee, Fla., and Wisconsin, on the one hand, and, on the other, points in New York on, north, and west of a line beginning at the New York-Pennsylvania State line on New York Highway 7, thence along New York Highway 7 to junction U.S. Highway 20, thence along U.S. Highway 20 to the New York-Massachusetts State line. The purpose of this filing is to eliminate the gateways of any railhead in Ashtabula County (Conneaut), Ohio, and points in Pennsylvania within 60 miles of such railhead (Erie, Pa.).

No. MC 5470 (Sub-No. E56), filed May 29, 1974. Applicant: TAJON, INC., Rural Delivery 5, Box 146, Mercer, Pa. 16137. Applicant's representative: Patrick McEligat, 918 Sixteenth St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silica sand, filter sand*, and *sandblast sand*, in bulk, in dump vehicles, from points in Morgan County, W. Va., to that part of Michigan in and east of Bay, Saginaw, Gratiot, Clinton, Eaton, Calhoun, and Branch Counties. The purpose of this filing is to eliminate the gateways of any railhead in Trumbull County, Ohio, and points in Ohio within 60 miles of such railhead (Garrettsville, Ohio).

No. MC 5470 (Sub-No. E57), filed May 29, 1974. Applicant: TAJON, INC., Rural Delivery 5, Box 146, Mercer, Pa. 16137. Applicant's representative: Patrick McEligat, 918 Sixteenth St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pig iron*, in dump vehicles, from points in New York (except those points east and south of a line beginning at the New York-Pennsylvania State line, thence along Interstate Highway 81 to Binghamton, N.Y., thence along New York Highway 7 to junction U.S. Highway 20, thence along U.S. Highway 20 to the New York-Massachusetts State line), to points in Kentucky. The purpose of this filing is to eliminate the gateways of Erie, Pa., and Portsmouth, Ohio.

No. MC 5470 (Sub-No. E58), filed May 29, 1974. Applicant: TAJON, INC.,

Rural Delivery 5, Box 146, Mercer, Pa. 16137. Applicant's representative: Patrick McEligat, 918 Sixteenth St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pig iron*, in dump vehicles, from points in New York on and north of Interstate Highway 90 to points in West Virginia on and west of Interstate Highway 77. The purpose of this filing is to eliminate the gateway of Erie, Pa.

No. MC 25869 (Sub-No. E1), filed May 5, 1974. Applicant: NOLTE BROS. TRUCK LINE, INC., P.O. Box 7184, South Omaha, Nebr. 68107. Applicant's representative: Irwin Schwartz (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products*, and *meat by-products*, and *articles* distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, and except liquid commodities in bulk, in tank vehicles); (1) from the facilities of Cornland Dressed Beef Co., at or near Lexington and Minden, Nebr., to points in Wisconsin (Council Bluffs, Iowa, and Saunders County, Nebr.) *; (2) from the facilities of Cornland Dressed Beef Co., at or near Lexington and Minden, Nebr., to points in Illinois (except Chicago, Ill., and points in its commercial zone, and Rock Island, Moline, and East Moline, Ill.), (points in Council Bluffs, Iowa, that are in the Omaha, Nebr., commercial zone) *; (3) from the facilities of Platte Valley Packing Co., at Dawson County, Nebr., to St. Louis, Mo. (Council Bluffs, Iowa, and Saunders County, Nebr.) *; (4) from Council Bluffs, Iowa, to St. Louis, Mo. (Saunders County, Nebr.) *; and (5) from the facilities of Platte Valley Packing Co., at Dawson County, Nebr., to points in Illinois (except Chicago, Ill., and its commercial zone, Rock Island, Moline and East Moline, Ill.) (points in Council Bluffs, Iowa, in the Omaha, Nebr., commercial zone). The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 29886 (Sub-No. E20) (Correction), filed May 23, 1974, published in the FEDERAL REGISTER, March 19, 1975. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 W. Sample St., South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (3) *New buses and truck chassis*, in driveaway service, from Lansing, Mich., to points in Arkansas, Colorado, Montana, Nevada, North Dakota, Oklahoma, and Utah, those in Kansas on and west of U.S. Highway 59, those in Nebraska on and west of U.S. Highway 183, those in South Dakota on and west of a line beginning at the North Dakota-South Dakota State line and extending along U.S. Highway 83 to junction U.S. Highway 16, thence along U.S. Highway 16 to junction South Dakota Highway 47, thence along South Dakota Highway 47 to the South Dakota-Nebraska State line, and Joplin, Mo. (Indiana, except Ft. Wayne, and Toledo, Ohio) *. The purpose of this filing is to eliminate the gateways indicated by asterisks above. The purpose of this correction is to include (3) above.

No. MC 31462 (Sub-No. E332) (Correction), filed May 13, 1974, published in the FEDERAL REGISTER, February 6, 1975. Applicant: PARAMOUNT MOVERS, INC., P.O. Box 309, Lancaster, Tex. 75146. Applicant's representative: R. L. Rork (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in that part of Missouri on and north of a line beginning at the Missouri-Illinois State line, thence along U.S. Highway 66 to the Missouri-Kansas State line, on the one hand, and, on the other, points in Wisconsin. The purpose of this filing is to eliminate the gateways of Burlington, Iowa and points within 50 miles. The purpose of this filing is to correct the sub number which was previously published as Sub-No. 322.

No. MC 51146 (Sub-No. E15) (Correction), filed November 2, 1974, published in the FEDERAL REGISTER, March 27, 1975. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (54) *Paper and paper products* (except commodities in bulk), from points in Pennsylvania on and within an area bordered on the west by U.S. Highway 219, on the north by Interstate Highway 80, on the east by the New Jersey-Pennsylvania State line, and on the south by U.S. Highway 30, to points in Alabama on and west of a line beginning at the junction of the Alabama-Tennessee State line and U.S. Highway 231, thence along U.S. Highway 231 to junction Alabama Highway 79, thence along Alabama Highway 79 to Birmingham, thence along U.S. Highway 31 to junction Alabama Highway 22, thence along Alabama Highway 22 to Selma, thence along Alabama Highway 41 to the Alabama-Florida State line (the plant site of Laminated and Coated Products Division, of St. Regis Paper Co., at Troy, Ohio) *. The purpose of this filing is to eliminate the gateways indicated by asterisks above. The purpose of this partial correction is to correct the highway descriptions above. The remainder of this letter-notice remains as previously published.

No. MC 51146 (Sub-No. E18), filed May 23, 1974. Applicant: SCHNEIDER TRANSPORT, P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: D. F. Martin (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metal containers, container ends*, utilized by food business houses (except commodities in bulk), from points in Washington, Oregon, Idaho, Montana, North Dakota, Minnesota (except points in Winona, Olmsted, Mower, Fillmore, and Houston Counties, Minn.), points in South Dakota on, north and west of a line beginning at the Minnesota-South Dakota State line and extending along U.S. Highway 16 to the intersection of South Dakota Highway 47, thence along South Dakota Highway 47 to the South Dakota-Nebraska State line, points in Wyoming on and north of a line beginning at the Nebraska-Wyoming State line and extending along U.S. Highway 20 to the intersection of Wyoming Highway 789, thence along Wyoming Highway 789 to the intersection of Interstate Highway 80, thence along Interstate Highway 80 to the Wyoming-Utah State line, points in Utah on and west of a line beginning at the Wyoming-Utah State line and extending along Interstate Highway 80 to the intersection of U.S. Highway 91, thence along U.S. Highway 91 to the Utah-Arizona State line, points in Nevada on and north of U.S. Highway 91, and

No. MC 60437 (Sub-No. E2), filed May 25, 1974. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 44359. Applicant's representative: Allan L. Timmerman (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Processed fruit products*, from Winchester, Va., to points in the New York, N.Y., commercial zone, as defined by the Commission in 1 M.C.C. 655, Delaware (except Dover), Maryland, New Jersey, Ohio, Pennsylvania, Virginia (except Clarke, Culpeper, Fauquier, Frederick, Greene, Loudoun, Madison, Orange, Page, Prince William, Rappahannock, Rockingham, Shenandoah, Spotsylvania, Stafford, and Warren Counties), West Virginia (except Grant, Hampshire, Hardy, Jefferson, Mineral, and Morgan Counties), and the District of Columbia; and (2) *Canned fruit, canned fruit products, and canned tomato juice and puree*, from Winchester, Va., to points in Delaware, Indiana, Kentucky, Maryland, New Jersey, New York, Ohio, Pennsylvania, Virginia (except Clarke, Culpeper, Fauquier, Frederick, Greene, Loudoun, Madison, Orange, Page, Prince William, Rappahannock, Rockingham, Shenandoah, Spotsylvania, Stafford, and Warren Counties), West Virginia (except Grant, Hampshire, Hardy, Jefferson, Mineral, and Morgan Counties), and the District of Columbia. The purpose of this filing is to eliminate the gateway of Inwood, N.J.

No. MC 83835 (Sub-No. E30), filed May 14, 1974. Applicant: WALES TRANSPORTATION, INC., P.O. Box 6186, Dallas, Tex. 75222. Applicant's representative: William A. Cunningham (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Iron and steel articles*, when transported as, machinery, equipment, materials, and supplies used in, or in connection with, the discovery, development, production, refining, manufacture,

processing; storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, equipment, materials, and supplies used in or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; (b) *Iron and steel articles,* when transported as, machinery, equipment, materials, and supplies used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products, and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights of way;

(c) *Iron and steel articles,* when transported as, commodities which, because of their size or weight, require the use of special equipment, and related parts when their transportation is incidental to the transportation of commodities, which by reason of size or weight, require the use of special equipment (except machinery, equipment, materials, and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and materials, equipment, and supplies used in, or in connection with the construction, operation, repair, servicing, mainstringing and picking up thereof; and (d) *Iron and steel articles,* when transported as, earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells.

(1) from points in Colorado, Utah, points in New Mexico on and south of a line beginning at the New Mexico-Texas State line extending along U.S. Highway 285 to junction U.S. Highway 380, thence along U.S. Highway 380 to junction U.S. Highway 85, thence along U.S. Highway 85 to junction U.S. Highway 66, thence along U.S. Highway 66 to the New Mexico-Arizona State line, and points in Texas on and south of a line beginning at the Texas-New Mexico State line extending along U.S. Highway 180 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction Texas Highway 71, thence along Texas Highway 71 to junction Texas Highway 261, thence along Texas Highway 261 to junction Texas Highway 29, thence along Texas Highway 29 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction U.S. Highway 290, thence along U.S. Highway 290 to junction Texas Highway 1960, thence along Texas Highway 1960 to junction Texas Highway 2100, thence along Texas Highway 2100 to junction Texas Highway 146, thence along Texas Highway 146 to the Texas-Gulf of Mexico line, to points in Mississippi on and south of a line beginning at the Mississippi-Louisiana State line extending along Interstate Highway 20 to junction U.S. Highway 80, thence along U.S. Highway 80 to the Mississippi-Alabama State line, (2) from points in Texas on and south of a line beginning at the Texas-New Mexico State line extending along Texas Highway 13 to junction U.S. Highway 290.

Thence along U.S. Highway 290 to junction Texas Highway 1960, thence along Texas Highway 1960 to junction Texas Highway 2100, thence along Texas Highway 2100 to junction Texas Highway 146, thence along Texas Highway 146 to the Texas-Gulf of Mexico line, to points in Mississippi, (3) from points in Oklahoma on and west of a line beginning at the Oklahoma-Texas State line extending along U.S. Highway 283 to the Oklahoma-Kansas State line, to points in Mississippi on and south of a line beginning at the Mississippi-Louisiana State line extending along Mississippi Highway 26 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction Mississippi Highway 42, thence along Mississippi Highway 42 to the Mississippi-Alabama State line, (4) from points in New Mexico on and south and west of a line beginning at the New Mexico-Arizona State line extending along U.S. Highway 180 to junction New Mexico Highway 90, thence along New Mexico Highway 90 to junction Interstate Highway 25, thence along Interstate Highway 25 to junction U.S. Highway 82, thence along U.S. Highway 82 to junction U.S. Highway 54, thence along U.S. Highway 54 to the New Mexico-Texas State line, to points in Mississippi on and north of a line beginning at the Mississippi-Alabama State line extending along Interstate Highway 20, to junction Interstate Highway 55, thence along Interstate Highway 55 to junction Mississippi Highway 28, thence along Mississippi Highway 28 to the Mississippi-Louisiana State line, (5) from points in New Mexico to points in Mississippi on and south of a line beginning at the Mississippi-Alabama State line extending along Interstate Highway 20 to junction Interstate Highway 55, thence along Interstate Highway 55 to junction Mississippi Highway 28, thence along Mississippi Highway 28 to the Mississippi-Louisiana State line. The purpose of this filing is to eliminate the gateways of Baytown, Tex., Kansas, and Oklahoma.

No. MC 83835 (Sub-No. E33), filed May 14, 1974. Applicant: WALES TRANSPORTATION, INC., P.O. Box 6186, Dallas, Texas 75222. Applicant's representative: William A. Cunningham (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities,* the transportation of which, because of size or weight, requires the use of special equipment, except machinery, equipment, materials, and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, equipment, materials, and supplies used in or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, (a) between all points in Alaska, on the one hand, and, on the other, points in Colorado, Illinois, Louisiana, Missouri, Nebraska, and Texas, (b) between all points in Alaska, on the one hand, and, on the other, points in South Dakota on and south of highways beginning at the South Dakota-Wyoming State line extending along U.S. Highway 18 to junction South Dakota Highway 73, thence along South Dakota Highway 73 to junction Interstate Highway 90.

Thence along Interstate Highway 90 to junction to the South Dakota-Minnesota State line extending along Utah Highway 44 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Utah Highway 53, thence along Utah Highway 53 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction Utah Highway 24, thence along Utah Highway 24 to junction Utah Highway 95, thence along Utah Highway 95 to junction Utah Highway 261, thence along Utah Highway 261 to U.S. Highway 163, thence along U.S. Highway 163 to the Utah-Arizona State line; and points in Wyoming on and south of highways beginning at the Wyoming-Colorado State line extending along Wyoming Highway 789 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Wyoming Highway 34, thence along Wyoming Highway 34 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction U.S. Highway 26, thence along U.S. Highway 26 to junction U.S. Highway 85, thence along U.S. Highway 85 to junction U.S. Highway 20, thence along U.S. Highway 20 to the Wyoming-Nebraska State line. The purpose of this filing is to eliminate the gateway of Kansas and Oklahoma.

No. MC 83835 (Sub-No. E41), filed May 14, 1974. Applicant: WALES TRANSPORTATION, INC., P.O. Box 6186, Dallas, Tex. 75222. Applicant's representative: William A. Cunningham (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (A) *Tubing,* other than oilfield tubing, when transported as, earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or

wells; (B) *Tubing,* other than oilfield tubing, when transported as, commodities which, because of their size or weight, require the use of special equipment, and related parts when their transportation is incidental to the transportation of commodities, which by reason of size or weight, require the use of special equipment, except machinery, equipment, materials, and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and materials, equipment, and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof.

(C) *Tubing,* other than oilfield tubing, when transported as, machinery, equipment, materials, and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights of way; (1) from points in Louisiana to points in Arizona, (2) from points in Texas on and south of a line beginning at the Texas-New Mexico State line extending along U.S. Highway 84, thence along U.S. Highway 84 to junction U.S. Highway 283, thence along U.S. Highway 283 to junction Texas Highway 71, thence along Texas Highway 71 to junction U.S. Highway 290, thence along U.S. Highway 290 to junction U.S. Highway 75, thence along U.S. Highway 75 to the Texas-Gulf of Mexico line, to points in Alabama, Florida, North Carolina, South Carolina, Virginia, Georgia, and points in Mississippi on and south of a line beginning at the Mississippi-Louisiana State line extending along U.S. Highway 84, thence along U.S. Highway 84 to junction Interstate Highway 59, thence along Interstate Highway 59 to junction U.S. Highway 80, thence along U.S. Highway 80 to the Mississippi-Alabama State line, (3) from points in Texas on and east of a line beginning at the Texas-Louisiana State line extending along U.S. Highway 59, thence along U.S. Highway 59 to junction Texas Highway 94, thence along Texas Highway 94 to junction Interstate Highway 45, thence along Interstate Highway 45 to the Texas-Gulf of Mexico line, to points in Arizona, and (4) from points in Texas on and south of a line beginning at the Texas-Gulf of Mexico State line extending along Interstate Highway 45, thence along Interstate Highway 45 to junction U.S. Highway 290, thence along U.S. Highway 290 to junction U.S. Highway 285, thence along U.S. Highway 285 to the Texas-New Mexico State line, to points in Tennessee on and east of a line beginning at the Tennessee-Mississippi State line extending along Tennessee Highway 18 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction Interstate Highway 65, thence along Interstate Highway 65 to the Tennessee-Kentucky State line. The purpose of this filing is to eliminate the gateway of the facilities of Gulf States Tube at Rosenberg, Tex.

No. MC 83835 (Sub-No. E49), filed May 14, 1974. Applicant: WALES TRANSPORTATION, INC., P.O. Box 6186, Dallas, Texas 75222. Applicant's representative: William A. Cunningham (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (A) *Metal tubing and pipe,* when transported as: Commodities which, because of their size or weight, require the use of special equipment, and related parts when their transportation is incidental to the transportation of commodities, which by reason of size or weight require the use of special equipment, except machinery, equipment, materials, and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and materials, equipment and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; (B) *Metal tubing and pipe,* when transported as: Machinery, equipment, materials, and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, equipment, materials, and supplies used in or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the including the stringing and picking up

(C) *Metal tubing and pipe,* when transported as: Earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) and the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, (D) *Metal tubing and pipe,* when transported as: Machinery, equipment, materials, and supplies used in or in connection with the construction, operations, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights of way; (1) from points in Oklahoma on and north of highways beginning at the Oklahoma-Arkansas State line extending along U.S. Highway 59 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction U.S. Highway 270, thence along U.S. Highway 270 to junction Oklahoma Highway 1, thence along Oklahoma Highway 1 to junction Oklahoma Highway 12, thence along Oklahoma Highway 12 to junction Interstate Highway 35, to the Oklahoma-Texas State line, to points in Alabama; (2) from points in Colorado, to points in Ohio on and east of highways beginning at the Ohio-Lake Erie line; extending along Interstate Highway 71, to the Ohio-Kentucky State line; (3) from points in Colorado on and south of highways beginning at the Colorado-Kansas State line and extending along Interstate Highway 70 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Colorado-Utah State line, to points in Ohio.

(4) From points in Louisiana on and west of highways beginning at the Gulf of Mexico-Cameron, La. line extending along Louisiana Highway 27 to junction U.S. Highway 171, thence along U.S. Highway 171 to junction Louisiana Highway 117, thence along Louisiana High way 117 to junction Louisiana Highway 6, thence along Louisiana Highway 6 to U.S. Highway 84, thence along U.S. Highway 84 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Louisiana Highway 3, thence along Louisiana Highway 3 to the Arkansas-Louisiana State line, to points in New York; (5) from points in Louisiana on and west of highways beginning at the Louisiana-Gulf of Mexico line near Creole, La., extending along Louisiana Highway 27 to junction Louisiana Highway 14, thence along Louisiana Highway 14 to junction U.S. Highway 171, thence along U.S. Highway 171 to junction U.S. Highway 71, thence along U.S. Highway 71 to the Louisiana-Arkansas State line, to points in Michigan; (6) from points in Arkansas on and west of highways beginning at the Arkansas-Louisiana State line extending along U.S. Highway 167 to junction Arkansas Highway 7, thence along Arkansas Highway 7 to junction Arkansas Highway 24, thence along Arkansas Highway 24 to junction Arkansas Highway 53, thence along Arkansas Highway 53 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction Arkansas Highway 7, thence along Arkansas Highway 7 to junction U.S. Highway 270, thence along U.S. Highway 270 to junction U.S. Highway 71, thence along U.S. Highway 71 to the Arkansas-Missouri State line, to points in Upper Michigan; (7) from points in Louisiana on and west of highways beginning at the Louisiana-Arkansas State line extending along U.S. Highway 71 to junction U.S. Highway 171, thence along U.S. Highway 171 to junction Louisiana Highway 14, thence Louisiana Highway 14 to Louisiana Highway 27, thence along Louisiana Highway 27 to the Louisiana-Gulf of Mexico line, to points in Penn-

sylvania on and east of highways beginning at the Pennsylvania-Maryland State line extending along U.S. Highway 219 to the Pennsylvania-New York State line.

(8) From points in Colorado on and south of highways beginning at the Colorado-Oklahoma State line extending along U.S. Highway 287 to junction U.S. Highway 160, thence along U.S. Highway 160 to junction Colorado Highway 101, thence along Colorado Highway 101 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Colorado-Utah State line, to points in Lower Michigan; (9) From points in Arkansas on and west of highways beginning at the Arkansas-Oklahoma State line extending along U.S. Highway 70 to junction Arkansas Highway 8, thence along Arkansas Highway 8 to junction Arkansas Highway 27, thence along Arkansas Highway 27 to junction Arkansas Highway 7, thence along Arkansas Highway 7 to junction U.S. Highway 65, thence along U.S. Highway 65 to the Missouri-Arkansas State line, to points in New York on and east of highways beginning at the Atlantic Ocean-New York line extending along U.S. Highway 9 to junction Interstate Highway 87, thence along Interstate Highway 87 to junction New York Highway 17, thence along New York Highway 17 to junction New York Highway 30, thence along New York Highway 30 to junction New York Highway 206, thence along New York Highway 26 to junction New York Highway 10, thence along New York Highway 10 to junction New York Highway 28, thence along New York Highway 28 to junction New York Highway 23, thence along New York Highway 23 to junction New York Highway 51, thence along New York Highway 51 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction New York Highway 8, thence along New York Highway 8 to junction New York Highway 12, thence along New York Highway 12 to the New York-Canada line. The purpose of this filing is to eliminate the gateway of Tulsa, Okla.

No. MC 93318 (Sub-No. E1), filed May 31, 1974. Applicant: JOE D. HUGHES, INC., P.O. Box 9643, Houston, Tex. 77015. Applicant's representative: Chauncey White, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials,* and *supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials,* and *supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up of pipe in connection with main pipe lines, (2) *machinery, equipment, materials,* and *supplies* used in, or in connection with, the drilling of water wells, (3) *machinery, equipment, materials,* and *supplies* used in or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products, and by-products; water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights of way, (4) *earth drilling machinery and equipment,* and *machinery, equipment, materials, supplies,* and *pipe* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells.

(A) Between points in Alabama, on the one hand, and, on the other, points in Colorado, (B) between points in Alabama, one the one hand, and, on the other, points in Montana, (C) between points in Alabama, on the one hand, and, on the other, points in Wyoming, (D) between points in Alabama, on the one hand, and, on the other, points in Utah, (E) between points in Florida, on the one hand, and, on the other, points in Colorado, (F) between points in Montana, on the one hand, and, on the other, points in Montana, (G) between points in Florida, on the one hand, and, on the other, points in Utah, (H) between points in Florida, on the one hand, and, on the other, points in Wyoming, (I) between points in Georgia, on the one hand, and, on the other, points in Colorado, (J) between points in Georgia, on the one hand, and, on the other, Montana, (K) between points in Georgia, on the one hand, and, on the other, points in Utah, and (L) between points in Georgia, on the one hand, and, on the other, points in Wyoming; (5) *machinery, equipment, materials,* and *supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts, and *machinery, materials, equipment,* and *supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines including the stringing and picking thereof, (6) *earth drilling machinery and equipment, machinery, equipment, materials, supplies,* and *pipe* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operations, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells.

(A) Between points in Kansas on and west of a line beginning at the Kansas-Oklahoma State line extending along Interstate Highway 35 to junction U.S. Highway 81, thence along U.S. Highway 81 to the Kansas-Nebraska State line, on the one hand, and, on the other, points in Alabama, on and south of a line beginning at the Alabama-Mississippi State line extending along U.S. Highway 82 to Tuscaloosa, thence along Interstate Highway 20 to junction U.S. Highway 78, thence along U.S. Highway 78 to the Alabama-Georgia State line; (7) *machinery, equipment, materials,* and *supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials,* and *supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof (except the stringing and picking up of pipe in connection with main pipe lines), (8) *earth drilling machinery and equipment, machinery, equipment, materials, supplies,* and *pipe* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells.

(A) Between points in Kansas, south of a line beginning at the Kansas-Missouri State line extending along U.S. Highway 54 to Ft. Scott, Wichita, Pratt, Liberal, and to the Kansas-Oklahoma State line, on the one hand, and, on the other, points in Colorado west of a line beginning at the Colorado-New Mexico State line extending along Interstate Highway 25 to junction U.S. Highway 85, thence along U.S. Highway 85 to junction U.S. Highway 87, thence along U.S. Highway 87 to the Colorado-Wyoming State line; (9) *machinery, equipment, materials,* and *supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, materials, equipment, and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, (10) *earth drilling machinery and equipment, machinery, equipment, materials, supplies,* and *pipe* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into

or from holes or wells, (A) between points in Kansas, on the one hand, and, on the other, points in Florida.

(B) Between points in Kansas, on and west of a line beginning at the Kansas-Oklahoma State line extending along Interstate Highway 35 to junction U.S. Highway 81, thence along U.S. Highway 81 to the Kansas-Nebraska State line, on the one hand, and, on the other, points in Georgia on and south of a line beginning at the Georgia-Alabama State line extending along U.S. Highway 78 to junction Interstate Highway 20, thence along Interstate Highway 20 to junction U.S. Highway 278, thence along U.S. Highway 278 to junction U.S. Highway 78, thence along U.S. Highway 78 to the Georgia-South Carolina State line; (11) *machinery, equipment, materials,* and *supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment,* and *supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, (12) *earth drilling machinery and equipment, machinery, equipment, materials, supplies,* and *pipe* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, (A) between points in Kansas on and west of a line beginning at the Kansas-Oklahoma State line extending along U.S. Highway 75 to the Kansas-Nebraska State line, and points in Mississippi on and south of a line beginning at the Mississippi-Arkansas State line extending along U.S. Highway 82 to the Mississippi-Alabama State line.

(13) *Machinery, equipment, materials,* and *supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials,* and *supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof (except the stringing and picking up of pipe in connection with main pipe line), (14) *earth drilling machinery and equipment, machinery, equipment, materials, supplies,* and *pipe* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, (A) between points in Kansas on and south of a line beginning at the Kansas-Missouri State line extending along U.S. Highway 54 to junction U.S. Highway 154, thence along U.S. Highway 154 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Kansas-Colorado State line, on the one hand, and, on the other, points in Montana on and west of a line beginning at the United States-Canada International Boundary line extending along Interstate Highway 15 to junction U.S. Highway 91.

Thence along U.S. Highway 91 to the Montana-Idaho State line, (B) between Liberal, Kans., on the one hand, and, on the other, points in Montana on and east of a line beginning at the Montana-Wyoming State line extending along U.S. Highway 212 to junction U.S. Highway 312, thence along U.S. Highway 312 to junction Interstate Highway 10, thence along Interstate Highway 10 to the Montana-North Dakota State line, (C) between points in Kansas on, east, and south of a line beginning at the Kansas-Missouri State line extending along Interstate Highway 70 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction U.S. Highway 54, thence along U.S. Highway 54 to the Kansas-Oklahoma State line, on the one hand, and, on the other, points in Utah, south and west of a line beginning at the Utah-Colorado State line extending along Interstate Highway 70 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Utah-Nevada State line, (D) between points in Kansas on and south of a line beginning at the Kansas-Missouri State line extending along U.S. Highway 54, to junction U.S. Highway 169, thence along U.S. Highway 169 to junction U.S. Highway 160, thence along U.S. Highway 160 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction U.S. Highway 54, thence along U.S. Highway 54 to Liberal and to the Kansas-Oklahoma State line, on the one hand, and, on the other, points in Wyoming on and west of a line beginning at the Wyoming-Colorado State line extending along Wyoming Highway 789, thence along Wyoming Highway 789 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 187.

Thence along U.S. Highway 187 to junction Wyoming Highway 28, thence along Wyoming Highway 28 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 26, thence along U.S. Highway 26 to junction U.S. Highway 89, thence along U.S. Highway 89 to the Wyoming-Idaho State line, (E) between Liberal, Kans., on the one hand, and, on the other, points in Wyoming on and north of a line beginning at the Wyoming-South Dakota State line extending along U.S. Highway 16, thence along U.S. Highway 16 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction U.S. Highway 87, thence along U.S. Highway 87 to the Wyoming-Montana State line; (15) *Machinery, equipment, materials,* and *supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials,* and *supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof (except the stringing and picking up of pipe in connection with main pipe lines), (16) *machinery, equipment, materials,* and *supplies* used in, or in connection with, the drilling of water wells, (17) *machinery, equipment, materials,* and *supplies* used in or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of-way.

(18) *Earth drilling machinery and equipment, machinery, equipment, materials, supplies,* and *pipe* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, (A) between points in Louisiana, on the one hand, and, on the other, points in Colorado, Montana, and Utah, (B) between points in Mississippi, on the one hand, and, on the other, points in Colorado, Montana, and Utah; (19) *machinery, equipment, materials,* and *supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, equipment, materials, and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof (except the stringing and picking up of pipe in connection with main pipe lines).

(20) *Machinery and equipment,* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of sulphur and its products, and materials and supplies (not including sulphur), used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of sulphur and its products, restricted to the transportation of shipments of materials and supplies moving to or from exploration, drilling,

production, refining, manufacture, processing, storage, transmission, and distribution of sulphur and its products, restricted to the transportation of shipments of materials and supplies moving to or from exploration, drilling, production, job, construction plant (including refining, manufacturing, and processing plant), sites or storage sites, (21) *machinery, equipment, materials,* and *supplies* used in, or in connection with, the drilling of water wells, (22) *machinery, equipment, materials,* and *supplies* used in or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights of way, (23) *earth drilling machinery and equipment, machinery, equipment, materials, supplies,* and *pipe* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, (A) between points in Louisiana, on the one hand, and, on the other, points in Wyoming.

(B) Between points in Mississippi, on the one hand, and, on the other, points in Wyoming; (24) *machinery, equipment, materials,* and *supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment,* and *supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines including the stringing and picking up thereof; (25) *earth drilling machinery and equipment, machinery, equipment, materials, supplies,* and *pipe* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells; between points in New Mexico, on the one hand, and, on the other, points in Alabama, Florida, and Georgia; (26) *machinery, equipment, materials,* and *supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products; and machinery, equipment, materials, and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof (except the stringing and picking up of pipe in connection with main pipe lines).

(27) *Earth drilling machinery and equipment, machinery, equipment, materials, supplies;* and *pipe* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, (A) between points in New Mexico on and east of a line beginning at the New Mexico-Texas State line along Interstate Highway 10 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction U.S. Highway 54, thence along U.S. Highway 54 to junction U.S. Highway 70, thence along U.S. Highway 70 to the New Mexico-Texas State line near Clovis, N. Mex. (except Las Cruces, N. Mex., to Pueblo, Colo.), on the one hand, and, on the other, points in Colorado, on, north, and east of a line beginning at the Colorado-Kansas State line extending along U.S. Highway 50 to junction U.S. Highway 85, thence along U.S. Highway 85 to junction Interstate Highway 25, thence along Interstate Highway 25 to the Colorado-Wyoming State line (exclusive of Pueblo, Colo., to Las Cruces, N. Mex.), (B) between points in New Mexico on, south, and east of a line beginning at the New Mexico-Arizona State line extending along Interstate Highway 10 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction New Mexico Highway 18, thence along New Mexico Highway 18 to junction New Mexico Highway 39, thence along New Mexico Highway 39 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction U.S. Highway 54, thence along U.S. Highway 54 to the New Mexico-Texas State line (except Las Cruces, N. Mex., to Butte, Mont.), on the one hand, and, on the other, points in Montana, on and south of a line beginning at the Montana-North Dakota State line extending along U.S. Highway 10 to junction U.S. Highway 12.

Thence along U.S. Highway 12 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction U.S. Highway 91, thence along U.S. Highway 91 to the Montana-Idaho State line (exclusive of Butte, Mont., to Las Cruces, N. Mex.); (28) *machinery, equipment,* materials and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment,* and *supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; (29) *earth drilling machinery and equipment, machinery, equipment, supplies,* and *pipe* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in New Mexico and Mississippi.

(30) *Machinery, equipment, materials,* and *supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials,* and *supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof (except the stringing and picking up of pipe in connection with main pipe lines; (31) *earth drilling machinery and equipment, machinery, equipment, materials, supplies,* and *pipe* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, (A) between points in New Mexico on and east of a line beginning at the New Mexico-Texas State line extending along New Mexico Highway 18 to Hobbs, thence along U.S. Highway 70 to Clovis, thence along New Mexico Highway 18 to New Mexico Highway 39, thence along New Mexico Highway 39 to junction U.S. Highway 66, thence along U.S. Highway 66 to the New Mexico-Texas State line, on the one hand, and, on the other, points in Utah on and north of a line beginning at the Utah-Colorado State line extending along U.S. Highway 40 to junction U.S. Highway 189.

Thence along U.S. Highway 189 to junction U.S. Alternate Highway 50, thence along U.S. Alternate Highway 50 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Nevada-Colorado State line, (B) between points in New Mexico on, south, and east of a line beginning at the New Mexico-Arizona State line extending along Interstate Highway 10 to Las Cruces, thence along U.S. Highway 70 to junction New Mexico Highway 18, thence along New Mexico Highway 18 to junction New Mexico Highway 39, thence along New Mexico Highway 39 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction U.S. Highway 54, thence along U.S. Highway 54 to the New Mexico-Texas State line, on the one hand, and, on the

other, points in Wyoming on and east of a line beginning at the Montana-Wyoming State line extending along Wyoming Highway 114 to junction Wyoming Highway 120, thence along Wyoming Highway 120 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 26, thence along U.S. Highway 26 to junction Interstate Highway 25, thence along Interstate Highway 25 to the Wyoming-Colorado State line, (C) between points in Oklahoma, on the one hand, and, on the other, points in Colorado on and west of a line beginning at the Colorado-Wyoming State line extending along U.S. Highway 87 to junction Interstate Highway 25, thence along Interstate Highway 25 to Fort Collins, Denver, Colorado Springs, Pueblo, Trinidad, and to the Colorado-New Mexico State line, (D) between points in Oklahoma, on the one hand, and, on the other, points in Utah and Wyoming.

(E) Between points in Oklahoma on, west, and south of a line beginning at the Oklahoma-Kansas State line extending along Interstate Highway 35 to junction U.S. Highway 177, thence along U.S. Highway 177 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction Oklahoma Highway 33, thence along Oklahoma Highway 33 to the Oklahoma-Arkansas State line, on the one hand, and, on the other, points in Montana on and west of a line beginning at the Montana-Wyoming State line extending along US. Highway 212 to junction U.S. Highway 312, thence along U.S. Highway 312 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction Montana Highway 16, thence along Montana Highway 16 to junction Montana Highway 200, thence along Montana Highway 200 to the North Dakota-Montana State line; (32) *machinery, equipment, materials,* and *supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, materials, equipment, and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, (A) between points in Mississippi on and south of Interstate Highway 20 to and points in Kansas (Louisiana) *, (B) between points in Mississippi and points in New Mexico (Louisiana) *.

(C) Between points in Mississippi on and south of Interstate Highway 20 and points in Oklahoma on and west of a line beginning at the Oklahoma-Kansas State line extending along U.S. Highway 75 to the Indian Nation Turnpike, thence along the Indian Nation Turnpike to junction U.S. Highway 271, thence along U.S. Highway 271 to the Kansas-Texas State line (Louisiana) *; (33) *machinery, equipment, materials,* and *supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment,* and *supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; (34) *earth drilling machinery and equipment, machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, (A) between points in Oklahoma on and west of a line beginning at the Oklahoma-Kansas State line extending along U.S. Highway 281, thence along U.S. Highway 281 to junction U.S. Highway 64, thence along U.S. Highway 64 to Enid, thence along U.S. Highway 81 to Oklahoma City, thence along U.S. Highway 270 to Oklahoma Highway 99, thence along Oklahoma Highway 99 to junction Oklahoma Highway 3, thence along Oklahoma Highway 3 to junction U.S. Highway 271, thence along U.S. Highway 271 to the Oklahoma-Texas State line, and points in Mississippi.

(35) *Earth drilling machinery and equipment, machinery, equipment, materials, supplies,* and *pipe* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells; (36) *machinery, equipment, materials,* and *supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment,* and *supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, (A) between points in Oklahoma, on the one hand, and, on the other, points in Florida and Georgia, (B) between points in Oklahoma west and south of a line beginning at the Oklahoma-Kansas State line extending along U.S. Highway 75 to junction U.S. Highway 64, thence along U.S. Highway 64 to the Oklahoma-Arkansas State line, on the one hand, and, on the other, points in Alabama on and south of a line beginning at the Alabama-Mississippi State line extending along U.S. Highway 78 to junction Alabama Highway 278, thence along Alabama Highway 278 to the Alabama-Georgia State line. The purpose of this filing is to eliminate the gateway of Texas (unless otherwise indicated by an asterisk).

No. MC 95540 (Sub-No. E546), filed May 9, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, 5299 Roswell Rd., N.E., Suite 212, Atlanta, Ga. 30342. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen foods,* from Melton, Pa., to all points in Florida on and west of a line beginning at the Florida-Alabama State line on U.S. Highway 231, thence along U.S. Highway 231 to Panama City and the Gulf of Mexico. The purpose of this filing is to eliminate the gateway of Florence, Ala.

No. MC 95540 (Sub-No. E637), filed May 8, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, 5299 Roswell Rd. NE., Suite 212, Atlanta, Ga. 30342. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen foods,* from Saltsburg, Pa., to all points in Arkansas. The purpose of this filing is to eliminate the gateway of Florence, Ala.

No. MC 106920 (Sub-No. E57) (Correction), filed June 3, 1974. Published in the FEDERAL REGISTER February 10, 1975. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, New Bremen, Ohio 45869. Applicant's representative: E. Stephen Helsley, 805 McLachlen Bank Bldg., 666 Eleventh St. N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities classified as dairy products* under B in the appendix to the report in *Modification of Permits of Motor Contract Carriers of Packing House Products,* 48 M.C.C. 628, from points in Texas on and west of a line beginning at the Texas-Mexico International Boundary line and extending along U.S. Highway 80 to junction U.S. Highway 385, thence along U.S. Highway 385 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction Interstate Highway 27, thence along Interstate Highway 27 to junction U.S. Highway 287, thence along U.S. Highway 287 to the Texas-Oklahoma State line, to points in Kentucky bounded on the west of a line beginning at the Kentucky-Indiana State line and extending along Interstate Highway 64 to junction U.S. Highway 127, thence along U.S. Highway 127 to junction U.S. Highway 150, thence along U.S. Highway 150 to junction Interstate Highway 75, thence along Interstate Highway 75 to junction U.S. Highway 25E, thence along U.S. Highway 25E to the Kentucky-Tennesee State line and on the east by a line beginning at the Ohio-Kentucky State line and extending along U.S. Highway 27 to junction Kentucky Highway 617, thence along Kentucky Highway 617 to junction U.S. Highway 62, thence along

U.S. Highway 62 to junction Kentucky Highway 165, thence along Kentucky Highway 165 to junction Kentucky Highway 32, thence along Kentucky Highway 32 to junction Kentucky Highway 201, thence along Kentucky Highway 201 to junction U.S. Highway 460, thence along U.S. Highway 460 to the Kentucky-Virginia State line. The purpose of this filing is to eliminate the gateway of Darke, Mercer, and Auglaize Counties, Ohio. The purpose of this correction is to correct the territorial description.

No. MC 106920 (Sub-No. E103) (Correction), filed June 3, 1974. Published in the FEDERAL REGISTER March 18, 1975. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, New Bremen, Ohio 45869. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street, NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Commodities classified as *dairy products* under B in the appendix to the report in *Modification of Permits of Motor Contract Carriers of Packinghouse Products*, 48 M.C.C. 628, from those points in Missouri on or north of a line beginning at the Kansas-Missouri State line and extending along U.S. Highway 36 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction Missouri Highway 6, thence along Missouri Highway 6 to junction Missouri Highway 16, thence along Missouri Highway 16 to the Illinois-Missouri State line to those points in Georgia on or east of a line beginning at the Florida-Georgia State line and extending along Interstate Highway 75 to junction U.S. Highway 221, thence along U.S. Highway 221 to junction Georgia Highway 56, thence along Georgia Highway 56 to junction U.S. Highway 25, thence along U.S. Highway 25 to the Georgia-South Carolina State line. The purpose of this filing is to eliminate the gateways of Darke, Mercer and Auglaize Counties, Ohio.

No. MC 107295 (Sub-No. E62) (Correction), filed May 14, 1974, published in the FEDERAL REGISTER, March 10, 1975. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings*, complete, knocked down, or in sections, and when transported in connection with the transportation of such buildings, *component parts* thereof and *equipment* and *materials* incidental to the erection and completion of such buildings; (3) from points in Pennsylvania to points in Colorado, Idaho, Louisiana, Nevada, New Mexico, South Dakota, Utah, and Wyoming. The purpose of this filing is to eliminate the gateway of (3) Washington Court House, Ohio. The purpose of this partial correction is to correct the territorial description. The remainder of this letter-notice remains as previously published.

No. MC 107295 (Sub-No. E69) (Correction), filed May 14, 1974, published in the FEDERAL REGISTER, March 13, 1975. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, complete, knocked down, or in sections, including all component parts, materials, supplies, and fixtures, and when shipped with such buildings, *accessories* used in the erection, construction, and completion thereof; (9) from points in that part of Indiana located in, east, and north of Vigo, Clay, Greene, Lawrence, Washington, and Clark Counties to points in that part of South Carolina located in and east of Barnwell, Orangeburg, Calhoun, Sumter, Lee, Darlington, and Marlboro Counties. The purpose of this filing is to eliminate the gateways of points in Ohio and Lumberton, N.C. The purpose of this partial correction is to correct a typographical error. The remainder of this letter-notice remains as previously published.

No. MC 107295 (Sub-No. E201) (Correction), filed May 9, 1974, published in the FEDERAL REGISTER, March 26, 1975. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and accessories* used in connection therewith (except in bulk), from the plant site of Philip Carey Company located at Lockland, Ohio, to points in North Dakota, South Dakota, Nebraska, Colorado, and to points in that part of New Mexico located in, south, and west of Quay, Guadalupe, Torrance, Socorro, Sierra, and Dona Ana Counties, restricted to the transportation of shipments originating at the above-named plant site. The purpose of this filing is to eliminate the gateway of Fort Dodge, Iowa. The purpose of this correction is to correct the "E" number, previously published E20.

No. MC 107295 (Sub-No. E226), filed May 9, 1974. Applicant: PRE-FAB TRANSIT CO., P.O. Box 148, Farmer City, Ill. 61842. Applicant's representative: Richard D. Vollmer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated* buildings, complete, knocked down, or in sections; (1) from points in that part of Texas in and east of Maverick, Uvalde, Bandera, Kerr, Gillespie, Llano, San Suba, Mills, Comanche, Erath, Palo Pinto, Jack, and Montague Counties to points in that part of Minnesota on and north of Yellow Medicine, Renville, Sibley, Le Sueur, Rice, and Goodhue Counties (Pine Bluff, Ark.)*; (2) from points in that part of Texas in and west of Wichita, Archer, Young, Stephens, Eastland, Brown, McCulloch, Mason, Kimble, Kerr, Bandera, Uvalde, and Maverick Counties to points in that part of Mississippi in Warren, Hinds, Rankin, Scott, Newton, and Lauderdale Counties (Pine Bluff, Ark.)*; (3) from points in Texas to points in Iowa and that part of Missouri in, north, and east of Atchison, Nodaway, Gentry, Daviess, Livingston, Charlton, Howard, Boone, Callaway, Gasconade, Crawford, Iron, Wayne, Stoddard, and New Madrid Counties (points in Arkansas); and (4) from points in that part of Texas in and east of Cooke, Wise, Parker, Hood, Erath, Hamilton, Lampassas, Burnet, Blanco, Kendall, Bandera, Uvalde, and Maverick Counties to points in that part of North Dakota in and north of Divide, Burke, Mountrail, Ward, McHenry, Pierce, Wells, Stutsman, Barnes, Ransom, and Richland Counties (points in Arkansas and Wapello County, Iowa)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 107295 (Sub-No. E227), filed May 9, 1974. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Richard D. Vollmer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, complete, knocked down, or in sections; (1) from points in Illinois to points in that part of Arizona in and south of Yuma, Maricopa, Gila, Graham, and Greenlee Counties, points in that part of California in and south of Santa Barbara, Keens, and San Bernardino Counties, and points in that part of New Mexico in and south of Catron, Socorro, Lincoln, Chaves, and Lea Counties (Pine Bluff, Ark.)*; (2) from points in Illinois to points in Idaho, Montana, Nevada, Utah, and Wyoming (points in Wapello County, Iowa)*; (3) from points in that part of Illinois in and north of Randolph, Perry, Franklin, Hamilton, and White Counties to points in Colorado, North Dakota, and South Dakota (points in Wapello County, Iowa)*; (4) from points in Illinois to points in Delaware, Maryland, New Jersey, points in that part of Virginia in and east of Alleghany, Botetourt, Bedford, Campbell, Charlotte, and Mecklenburg Counties, points in that part of West Virginia in and east of Wood, Wilt, Calhoun, Braxton, Webster, Greenbrier, and Monroe Counties, and the District of Columbia (points in Ohio)*; (5) from points in that part of Illinois in and north of Randolph, Perry, Franklin, Hamilton, and White Counties to points in North Carolina (points in Ohio)*; and (6) from points in that part of Illinois in and north of Adams, Brown, Cass, Sangamon, Christian, Moultrie, Douglas, and Edgar Counties to points in that part of South Carolina in and east of Lancaster, Kershaw, Richland, Calhoun, Orangeburg, and Barnwell Counties (points in Ohio and Lumberton, N.C.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 107403 (Sub-No. E681) (Correction), filed January 31, 1975, published in the FEDERAL REGISTER, March 27, 1975. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050

Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, in bulk, in tank vehicles (except cement and liquefied petroleum gas), from the Flexi-Flo terminal of Penn Central at Rochester, N.Y., to those points in Ohio, West Virginia, Pennsylvania, and Maryland within 150 miles of Monongahela, Pa. The purpose of this filing is to eliminate the gateways of points in the Pennsylvania Counties of Warren, McKean, Potter, and Erie within 150 miles of Monongahela, Pa. The purpose of this correction is to correct the "E" number, previously published as E861.

No. MC 107515 (Sub-No. E502), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except in bulk, from Amarillo, Tex., to Virginia and West Virginia; (2) *meats, meat products, meat by-products*, as described in Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except in bulk, from Burris, Tex., to all points in Virginia and West Virginia, and that portion of Kentucky on and east of a line beginning at Maysville, Ky., thence along Kentucky Highway 11 to the Kentucky-Ohio State line; (3) *meats, meat products, meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except in bulk, from Palestine, Tex., to Virginia and West Virginia; (4) *meats, meat products, meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 272, except in bulk, from Paris, Tex., to Virginia; and (5) *meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from plant site of Western Beef Co., at Pampa, Tex., which are utilized by Armour & Co., to Virginia and West Virginia. The purpose of this filing is to eliminate the gateway of Atlanta, Ga.

No. MC 107515 (Sub-No. E503), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in vehicles equipped with mechanical refrigeration, from Crookston, Minn., to South Carolina, and that portion of North Carolina on and east of a line beginning at the North Carolina-South Carolina State line extending along North Carolina Highway 49 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction U.S. Highway 401, thence along U.S. Highway 401 to the North Carolina-Virginia State line. The purpose of this filing is to eliminate the gateways of Chattanooga, Tenn., and Atlanta, Ga.

No. MC 107515 (Sub-No. E504), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and cured meats*, except in bulk, in vehicles equipped with mechanical refrigeration, from Chino, Calif., to all points in Virginia, West Virginia, North Carolina, and South Carolina, and that portion of Kentucky on and east of U.S. Highway 27, restricted to the transportation of traffic originating at the plant site and storage facilities of Swift Fresh Meats at Chino, Calif. The purpose of this filing is to eliminate the gateways of Atlanta, Ga., and Pensacola, Fla.

No. MC 107515 (Sub-No. E507), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050 Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and cured meats*, (1) from points in Florida on and east of U.S. Highway 319 to points in Oregon, Washington, and those in California on, west or north of a line beginning at Morro Bay and extending along California Highway 41 to junction California Highway 46, thence along California Highway 46 to junction California Highway 155, thence along California Highway 155 to junction California Highway 178, thence along California Highway 178 to junction U.S. Highway 395, thence along U.S. Highway 395 to junction California Highway 190, thence along California Highway 190 to junction California Highway 127, thence along California Highway 127 to the Nevada-California State line, and (2) from points in Florida on, south and east of a line beginning at Clearwater and extending along Florida Highway 60 to junction Interstate Highway 75, thence along Interstate Highway 75 to junction Florida Highway 44, thence along Florida Highway 44 to junction U.S. Highway 17, thence along U.S. Highway 17 to the Florida-Georgia State line and Duval County, Fla., to points in California on or west of U.S. Highway 395. The purpose of this filing is to eliminate the gateways of Atlanta, Ga., and Bristol, Va.-Tenn.

No. MC 107515 (Sub-No. E550) (Correction), filed January 27, 1975, published in the FEDERAL REGISTER, April 7, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen edible meat*, in vehicles equipped with mechanical refrigeration, from Nogales, Ariz., to Maryland, Delaware, District of Columbia, New Jersey, Connecticut, Massachusetts, and points in that part of New York on, south, or east of a line beginning at Lake Ontario and extending along New York Highway 98 to junction New York Highway 16, thence along New York Highway 16 to the New York-Pennsylvania State line. The purpose of this filing is to eliminate the gateway of Rocky Mount, N.C. The purpose of this correction is to correct the "E" number, previously published as E55.

No. MC 107515 (Sub-No. E555), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk, in vehicles equipped with mechanical refrigeration), from the plant site and warehouse facilities of the Pillsbury Company at or near Terre Haute, Ind., to points in Arizona, California, New Mexico, Oregon, Washington, Idaho, Nevada, and Utah. The purpose of this filing is to eliminate the gateway of Dyersburg, Tenn.

No. MC 107515 (Sub-No. E557), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk, in vehicles equipped with mechanical refrigeration), from Jacksonville, Ill., to points in Nevada on or south of Interstate Highway 15, points in California on, south, or west of a line beginning at the Nevada-California State line and extending along Interstate Highway 80 to junction Interstate Highway 5, thence along Interstate Highway 5 to the California-Oregon State line, and to points in Washington and Oregon on or west of Interstate Highway 5. The purpose of this filing is to eliminate the gateway of Union City, Tenn.

No. MC 107515 (Sub-No. E559), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum,

Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, from Noblesville, Ind., to points in California, Oregon, Arizona, and New Mexico, restricted against the transportation of frozen meats from Nashville, Tenn., to Hillsboro, Oreg., and further restricted against the transportation of frozen citrus products from points in Florida to points in Colorado, Idaho, Montana and Wyoming. The purpose of this filing is to eliminate the gateway of Union City, Tenn.

No. MC 111320 (Sub-No. E62) (Correction), filed May 31, 1974, published in the FEDERAL REGISTER, July 24, 1974. Applicant: KEEN TRANSPORT, INC., P.O. Box 668, Hudson, Ohio 44236. Applicant's representative: L. E. Gresh (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used, damaged, rejected, or defective trucks, trailers, and other types of motor vehicles* (except passenger automobiles), but including *self-propelled road building and contractors' vehicles or machinery*, in driveaway and truckaway service, between points in Kentucky, on the one hand, and, on the other, points in Connecticut and Rhode Island. The purpose of this filing is to eliminate the gateway of Elmira Heights, N.Y. The purpose of this correction is to correct the commodity description.

No. MC 111320 (Sub-No. E63) (Correction), filed May 31, 1974, published in the FEDERAL REGISTER, July 24, 1974. Applicant: KEEN TRANSPORT, INC., P.O. Box 668, Hudson, Ohio 44236. Applicant's representative: L. E. Gresh (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used, damaged, rejected, or defective trucks, trailers, and other types of motor vehicles* (except passenger automobiles), but including *self-propelled road building and contractors' vehicles or machinery*, in driveaway and truckaway service, between points in New Jersey on and north of New Jersey Highway 33, on the one hand, and, on the other, points in Kentucky on and west of a line beginning at the Kentucky-Ohio State line, thence along Interstate Highway 75 to junction Kentucky Highway 461, thence along Kentucky Highway 461 to junction Kentucky Highway 80, thence along Kentucky Highway 80 to junction U.S. Highway 27, thence along U.S. Highway 27 to the Kentucky-Tennessee State line. The purpose of this filing is to eliminate the gateway of Elmira Heights, N.Y. The purpose of this correction is to correct the commodity description.

No. MC 111320 (Sub-No. E64) (Correction), filed May 31, 1974, published in the FEDERAL REGISTER, July 24, 1974. Applicant: KEEN TRANSPORT, INC., P.O. 668, Hudson, Ohio 44236. Applicant's representative: L. E. Gresh (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used, damaged, rejected, or defective trucks, trailers, and other types of motor vehicles* (except passenger automobiles), but including *self-propelled road building and contractors' vehicles or machinery*, in driveaway or truckaway service, between points in Tennessee, on the one hand, and, on the other, points in Rhode Island. The purpose of this filing is to eliminate the gateway of Elmira Heights, N.Y. The purpose of this correction is to correct the commodity description.

No. MC 111320 (Sub-No. E65) (Correction), filed May 31, 1974, published in the FEDERAL REGISTER, July 24, 1974. Applicant: KEEN TRANSPORT, INC., P.O. Box 668, Hudson, Ohio 44236. Applicant's representative: L. E. Gresh (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used, damaged, rejected, or defective trucks, trailers, and other types of motor vehicles* (except passenger automobiles), but including *self-propelled road building and contractors' vehicles or machinery*, in driveaway and truckaway service, between points in Connecticut, on the one hand, and, on the other, points in Tennessee on and west of a line beginning at the Kentucky-Tennessee State line, along U.S. Highway 127 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction U.S. Highway 11, thence along U.S. Highway 11 to the Tennessee-Alabama State line. The purpose of this filing is to eliminate the gateway of Elmira Heights, N.Y. The purpose of this correction is to correct the commodity description.

No. MC 111320 (Sub-No. E66) (Correction), filed May 31, 1974, published in the FEDERAL REGISTER, July 24, 1974. Applicant: KEEN TRANSPORT, INC., P.O. Box 668, Hudson, Ohio 44236. Applicant's representative: L. E. Gresh (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used, damaged, rejected, or defective trucks, trailers, and other types of motor vehicles* (except passenger automobiles), but including *self-propelled road building and contractors' vehicles or machinery*, in driveaway and truckaway service, between points in New Jersey, on the one hand, and, on the other, points in Tennessee on and west of Interstate Highway 65. The purpose of this filing is to eliminate the gateway of Elmira Heights, N.Y. The purpose of this correction is to correct the commodity description.

No. MC 111320 (Sub-No. E75) (Correction), filed May 31, 1974, published in the FEDERAL REGISTER, July 24, 1974. Applicant: KEEN TRANSPORT, INC., P.O. Box 668, Hudson, Ohio 44236. Applicant's representative: L. E. Gresh (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used, damaged, rejected, or defective trucks, trailers, and other types of motor vehicles* (except passenger automobiles), but including *self-propelled road building and contractors' vehicles or machinery*, in driveaway and truckaway service, between points in Massachusetts on and north of a line from Boston along Interstate Highway 90 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Interstate Highway 90, thence along Interstate Highway 90 to the Massachusetts-New York State line, on the one hand, and, on the other, points in North Carolina on and south of a line from the Atlantic Ocean along U.S. Highway 421 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction U.S. Highway 40, thence along U.S. Highway 40 to the North Carolina-Tennessee State line. The purpose of this filing is to eliminate the gateway of Elmira Heights, N.Y. The purpose of this correction is to correct the commodity description.

No. MC 111320 (Sub-No. E76) (Correction), filed May 31, 1974, published in the FEDERAL REGISTER, July 29, 1974. Applicant: KEEN TRANSPORT, INC., P.O. Box 668, Hudson, Ohio 44236. Applicant's representative: L. E. Gresh (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used, damaged, rejected, or defective trucks, trailers, and other types of motor vehicles* (except passenger automobiles), but including *self-propelled road building and contractors' vehicles or machinery*, in driveaway and truckaway service, between points in New Hampshire, on the on hand, and, on the other, points in North Carolina on and south of a line from the Atlantic Ocean along U.S. Highway 117 to junction North Carolina Highway 58, thence along North Carolina Highway 58 to junction North Carolina Highway 561, thence along North Carolina Highway 561, to junction U.S. Highway 158, thence along U.S. Highway 158 to junction U.S. Highway 52, thence along U.S. Highway 52 to the North Carolina-Virginia State line. The purpose of this filing is to eliminate the gateway of Elmira Heights, N.Y. The purpose of this correction is to correct the commodity description.

No. MC 111320 (Sub-No. E77) (Correction), filed May 31, 1974, published in the FEDERAL REGISTER, July 29, 1974. Applicant: KEEN TRANSPORT, INC., P.O. Box 668, Hudson, Ohio 44236. Applicant's representative: L. E. Gresh (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used, damaged, rejected, or defective trucks, trailers, and other types of motor vehicles* (except passenger automobiles), but including *self-propelled road building and contractors' vehicles or machinery*, in driveaway and truckaway service, between points in Vermont, on the one hand, and, on the other, points in North Carolina. The purpose of this filing is to eliminate the gateway of Elmira Heights, N.Y. The purpose of this correction is to correct the commodity description.

No. MC 111320 (Sub-No. E78) (Correction), filed May 31, 1974, published in

the FEDERAL REGISTER, July 26, 1974. Applicant: KEEN TRANSPORT, INC., P.O. Box 668, Hudson, Ohio 44236. Applicant's representative: L. E. Gresh (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used, damaged, rejected, or defective trucks, trailers, and other types of motor vehicles* (except passenger automobiles), but including *self-propelled road building and contractors' vehicles or machinery*, in driveaway or truckaway service, between points in Maine, on the one hand, and, on the other, points in Virginia west of a line from the North Carolina-Virginia State line, along U.S. Highway 15 to junction U.S. Highway 33, thence along U.S. Highway 33 to junction Interstate Highway 81, thence along Interstate Highway 81 to the Virginia-West Virginia State line. The purpose of this filing is to eliminate the gateway of Elmira Heights, N.Y. The purpose of this correction is to correct the commodity description.

No. MC 111320 (Sub-No. E99) (Correction), filed May 31, 1974, published in the FEDERAL REGISTER, January 22, 1975. Applicant: KEEN TRANSPORT, INC., P.O. Box 668, Hudson, Ohio 44236. Applicant's representative: L. E. Gresh (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled road building equipment, and parts thereof*, in driveaway and truckaway service, between points in New Jersey, on the one hand, and, on the other, points in that part of Ohio on and west of a line beginning at Lake Erie, thence along Interstate Highway 77 to junction Interstate Highway 271, thence along Interstate Highway 271 to junction Interstate Highway 71, thence along Interstate Highway 71 to junction Ohio Highway 3, thence along Ohio Highway 3 to junction U.S. Highway 23, thence along U.S. Highway 23 to the Ohio-Kentucky State line. The purpose of this filing is to eliminate the gateway of Lorain, Ohio. The purpose of this correction is to correct the territorial description.

No. MC 111320 (Sub-No. E100) (Correction), filed May 31, 1974, published in the FEDERAL REGISTER, January 22, 1975. Applicant: KEEN TRANSPORT, INC., P.O. Box 668, Hudson, Ohio 44236. Applicant's representative: L. E. Gresh (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used, damaged, rejected, or defective trucks, trailers, and other types of motor vehicles* (except passenger automobiles), but including *self-propelled road building and contractors' vehicles or machinery*, in driveaway and truckaway service, between points in that part of New York on and west of a line beginning at Lake Ontario, thence along New York Highway 98 to junction New York Highway 63, thence along New York Highway 63 to junction U.S. Alternate Highway 20, thence along U.S. Alternate Highway 20 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction New York Highway 17, thence along New York Highway 17 to junction New York Highway 14, thence along New York Highway 14 to the New York-Pennsylvania State line, on the one hand, and, on the other, points in Massachusetts, Vermont, New Hampshire, and Maine. The purpose of this filing is to eliminate the gateway of Elmira Heights, N.Y. The purpose of this correction is to correct the commodity description and the territorial descriptions and destination points.

No. MC 111320 (Sub-No. E101) (Correction), filed May 31, 1974, published in the FEDERAL REGISTER, January 22, 1975. Applicant: KEEN TRANSPORT, INC., P.O. Box 668, Hudson, Ohio 44236. Applicant's representative: L. E. Gresh (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used, damaged, rejected, or defective trucks, trailers, and other types of motor vehicles* (except passenger automobiles), but includign self-propelled road building and contractors' vehicles or machinery, in driveaway and truckaway service, between points in that part of New York on and east of a line beginning at Lake Ontario, thence along New York Highway 98 to junction New York Highway 63, thence along New York Highway 63 to junction New York Highway 19, thence along New York Highway 19 to the New York-Pennsylvania State line, on the one hand, and, on the other, points in Arkansas. The purpose of this filing is to eliminate the gateway of Elmira Heights, N.Y. The purpose of this correction is to correct the commodity description and territorial description.

No. MC 111320 (Sub-No. E107) (Correction), filed May 31, 1974, published in the FEDERAL REGISTER, January 23, 1975. Applicant: KEEN TRANSPORT, INC., P.O. Box 668, Hudson, Ohio 44236. Applicant's representative: L. E. Gresh (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled road building equipment, and parts thereof*, in driveaway and truckaway service, between points in that part of New York north of a line beginning at the Pennsylvania-New York State line, thence along New York Highway 17 to junction New York Highway 30, thence along New York Highway 30 to junction New York Highway 23, thence along New York Highway 23 to the New York-Massachusetts State line, on the one hand, and, on the other, points in that part of Tennessee on and west of a line beginning at the Kentucky-Tennessee State line, thence along Interstate Highway 75 to junction U.S. Highway 129, thence along U.S. Highway 129 to the Tennessee-North Carolina State line. The purpose of this filing is to eliminate the gateway of Lorain, Ohio. The purpose of this correction is to correct the territorial descriptions.

No. MC 111320 (Sub-No. E126) (Correction), filed May 17, 1974, published in the FEDERAL REGISTER, January 16, 1975. Applicant: KEEN TRANSPORT, INC., P.O. Box 668, Hudson, Ohio 44236. Applicant's representative: L. E. Gresh (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used, damaged, rejected or defective trucks, trailers, and other types of motor vehicles* (except passenger automobiles), but including *self-propelled road building and contractors' vehicles or machinery*, in driveaway and truckaway service, between points in that part of New York, on and east of a line beginning at Lake Ontario, thence along New York Highway 78 to junction New York Highway 16, thence along New York Highway 16 to the Pennsylvania-New York State line, on the one hand, and, on the other, points in Wisconsin. The purpose of this filing is to eliminate the gateway of Elmira Heights, N.Y. The purpose of this correction is to correct the commodity description and to omit the exception.

No. MC 111320 (Sub-No. E129) (Correction), filed May 17, 1974, published in the FEDERAL REGISTER, January 16, 1975. Applicant: KEEN TRANSPORT, INC., P.O. Box 668, Hudson, Ohio 44236. Applicant's representative: L. E. Gresh (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used, damaged, rejected, or defective trucks, trailers, and other types of motor vehicles* (except passenger automobiles), but including *self-propelled road building and contractors' vehicles or machinery* in driveaway and truckaway service, between points and places in New York, on the one hand, and, on the other, Arizona, California, Florida, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. The purpose of this filing is to eliminate the gateway of Elmira Heights, N.Y. The purpose of this correction is to correct the commodity description and to omit the exception.

No. MC 111785 (Sub-No. E1), filed May 29, 1974. Applicant: BURNS MOTOR FREIGHT, INC., Rural Free Delivery No. 1, U.S. Highway 219 No., P.O. Box 149, Marlinton, W. Va. 24954. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wooden posts*, and *wooden rails*, (a) from points in the lower peninsula of Michigan to points in North Carolina, South Carolina, Georgia, and Virginia, (b) from points in the lower (copy from (b) and (c) of attached letter) (points in West Virginia, and Newell, W. Va.)*. (2) *Lumber*, from points in Cuyahoga County, Ohio, to points in Alabama, Arkansas, Iowa, Maryland, New Jersey, Tennessee, Georgia, South Carolina, Virginia, North Carolina, (points in West Virginia)*. (3)

Lumber and *wooden pallets*, from Cambridge, Ohio to points in Alabama, Maryland, New Jersey, Georgia, South Carolina, Virginia, North Carolina, Connecticut, Delaware, Massachusetts, New Hampshire, New York, Rhode Island and Vermont. (points in W. Va.) *. (4) *Wooden pallets*, from points in Cuyahoga County, Ohio, to points in Virginia, Alabama, North Carolina, South Carolina, Louisiana, and Tennessee. (points in West Virginia, points in Tucker County, W. Va.) *.

(5) *Lumber*, except plywood and veneer, from points in Highland County, W. Va., to points in Alabama, Arkansas, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Massachusetts, Michigan, New Hampshire, New Jersey, New York, those points in North Carolina on and east of U.S. Highway 301, and points in Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain, and Transylvania Counties, N.C., Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Wisconsin, Ohio, and points in West Virginia (except those in and east of Monongalia, Marion, Harrison, Doddridge, Lewis, Webster, and Pocahontas Counties. (Marlington, W. Va.). (6) *Lumber*, from points in Garrett County, Md., to points in Alabama, Arkansas, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Massachusetts, Michigan, Maryland, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, Wisconsin and Ohio (points in West Virginia, points in Tucker County, W. Va.). (7) *Wooden pallets*, from points in West Virginia to points in Alabama, Arkansas, Connecticut, Delaware, the District of Columbia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, Wisconsin and Ohio (points in Tucker County, W. Va.). (8) *Lumber*, from points in West Virginia to points in Louisiana (points in West Virginia). The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 112822 (Sub-No. E125), filed May 22, 1974. Applicant: BRAY LINES INCORPORATED, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia* from points in Michigan and those in Michigan and those in Wisconsin on and east of a line beginning at the Minnesota-Wisconsin State line and extending along U.S. Highway 53 to junction U.S. Highway 12, thence along U.S. Highway 12 to the Wisconsin-Minnesota State line, to those points in Oklahoma bounded by a line beginning at the Oklahoma-Kansas State line and extending along U.S. Highway 81 to El Reno, Okla., thence along U.S. Highway 66 to Oklahoma City, Okla., thence along U.S. Highway 77 to Pauls Valley, Okla., thence along Oklahoma Highway 19 to Ada, Okla., thence along Oklahoma Highway 12 to Calvin, Okla., thence along U.S. Highway 270 to junction U.S. Highway 271, thence along U.S. Highway 271 to the Oklahoma-Arkansas State line, and thence along the Oklahoma-Arkansas, Oklahoma-Missouri, and Oklahoma-Kansas State line to points of beginning. The purpose of this filing is to eliminate the gateway of South River, Mo. (Marion County).

No. MC 112822 (Sub-No. E137), filed May 22, 1974. Applicant: BRAY LINES, INC., P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia, aqua ammonia fertilizer, and nitrogen fertilizer* solutions, in bulk, in tank vehicles, *urea*, and *ammonium nitrate*, except for use as an explosive, in bulk and in bags, from the plant and storage facilities of Arkla Chemical Corporation, in Phillips County, Ark., to points in Colorado, Minnesota, Montana, North Dakota, South Dakota, and New Mexico (except Lea and Eddy Counties, N. Mex.). The purpose of this filing is to eliminate the gateway of the plant site of Solar Nitrogen Chemicals, Inc., at or near Atlas, Mo.

No. MC 112822 (Sub-No. E138), filed May 22, 1974. Applicant: BRAY LINES, INC., P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid nitrogen fertilizer solutions*, in bulk, in tank vehicles, from Lawrence, Kans., to points in Arkansas, Kentucky, Louisiana, Mississippi, Tennessee, and those in Texas on and south of a line beginning at the Texas-New Mexico State line and extending along U.S. Highway 60 to junction Texas Highway 86, thence along Texas Highway 86 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 83, thence along U.S. Highway 83 to junction U.S. Highway 62, thence along U.S. Highway 62 to the Oklahoma-Texas State line. The purpose of this filing is to eliminate the gateway of the plant site of Solar Nitrogen Chemicals, Inc., at or near Atlas, Mo.

No. MC 112822 (Sub-No. E149), filed June 3, 1974. Applicant: BRAY LINES, INC., P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in vehicles, equipped with mechanical refrigeration, from those points in California on and north of Interstate Highway 80 to points in Oklahoma and Colorado (except those in Mesa, Delta, Garfield, Moffat, and Routt Counties, Colo.). The purpose of this filing is to eliminate the gateway of Idaho.

No. MC 112822 (Sub-No. E160), filed June 3, 1974. Applicant: BRAY LINES, INC., P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in containers, from those points in Oklahoma on and east of a line beginning at the Oklahoma-Kansas State line and extending along Oklahoma Highway 99 to junction Interstate Highway 40, to the Oklahoma-Arkansas State line. The purpose of this filing is to eliminate the gateway of Kansas City, Mo.

No. MC 112822 (Sub-No. E182), filed June 5, 1974. Applicant: BRAY LINES INCORPORATED, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from those points in Texas on, east, and north of a line beginning at the Texas-Oklahoma State line and extending along U.S. Highway 81 to junction 287, thence along U.S. Highway 81 to U.S. Highway 287, thence along U.S. Highway 287 to Ft. Worth, thence along U.S. Highway 287 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction U.S. Highway 190, thence along U.S. Highway 190 to the Texas-Louisiana State line. The purpose of this filing is to eliminate the gateway of Colorado.

No. MC 112822 (Sub-No. E204), filed June 5, 1974. Applicant: BRAY LINES, INC., P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, from those points in Minnesota on, south and east of a line beginning at Lake Superior and extending along U.S. Highway 61 to Minnesota Highway 23, thence along Minnesota Highway 23 to the Minnesota-Iowa State line, to those points in Montana on, south and east of a line beginning at the Montana-Wyoming State line and extending along U.S. Highway 87 to junction U.S. Highway 10, thence along U.S. Highway 10 to the Idaho-Montana State line. The purpose of this filing is to eliminate the gateways of Iowa and Nebraska.

No. MC 112822 (Sub-No. E214), filed June 5, 1974. Applicant: BRAY LINES, INC., P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid anhydrous ammonia fertilizer, liquid aqua ammonia fertilizer, and liquid nitrogen fertilizer solutions*, in bulk, in tank vehicles, from Leavenworth, Kans., to points in Arkansas, Louisiana, Mississippi, Tennessee, and those in Texas on and south of a line beginning at the New Mexico-Texas State line and extending along U.S.

Highway 60 to junction Texas Highway 86, thence along Texas Highway 86 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 83, thence along U.S. Highway 83 to junction U.S. Highway 62, thence along U.S. Highway 62 to the Oklahoma-Texas State line (except those in Harris County, Tex.). The purpose of this filing is to eliminate the gateway of the plant site of Solar Nitrogen Chemicals, Inc., at or near Atlas, Mo.

No. MC 112822 (Sub-No. E217), filed June 5, 1974. Applicant: BRAY LINES INCORPORATED, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen vegetables*, in vehicles equipped with mechanical refrigeration, from the plantsite of Frozen Foods, Inc., located about 4 miles from La Junta, Colo., to those points in Illinois on and south of a line beginning at the Indiana-Illinois State line and extending along U.S. Highway 40 to junction Illinois Highway 127, to junction Illinois Highway 154, to junction Illinois Highway 150, to the Illinois-Missouri State line. The purpose of this filing is to eliminate the gateway of the facilities of Stilwell Foods at Stilwell, Okla.

No. MC 113495 (Sub-No. E1), filed June 3, 1974. Applicant: GREGORY HEAVY HAULER, INC., P.O. Box 60628, Nashville, Tenn. 37206. Applicant's representative: E. T. Gregory (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Structural steel, heavy machinery, and construction equipment*, the transportation of which, because of size or weight, requires the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment); and (2) *Such self-propelled articles*, each weighing 15,000 pounds or more, which may be included in heavy machinery and equipment, and related machinery, tools, parts, and supplies moving in connection therewith, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, restricted to commodities which are transported on trailers, between points in that portion of North Carolina on and west of a line beginning at the North Carolina-Virginia State line and extending along U.S. Highway 220 to Rockingham, N.C., and thence along U.S. Highway 1 to the North Carolina-South Carolina State line, on the one hand, and, on the other, points in Adams, Alexander, Bond, Brown, Calhoun, Carroll, Cass, Christian, Clinton, Fayette, Franklin, Fulton, Greene, Hancock, Henderson, Henry, Jackson, Jefferson, Jersey, Johnson, Knox, Logan, Macon, Macoupin, Madison, Marion, Mason, Massac, McDonough, Menard, Mercer, Monroe, Montgomery, Morgan, Peoria, Perry, Pike, Pope, Pulaski, Randolph, Rock Island, St. Clair, Saline, Sangamon, Schuyler, Scott, Stark, Tazewell, Union, Warren, Washington, Whiteside, and Williamson Counties, Ill. The purpose of this filing is to eliminate the gateway of points in Kentucky west of the Tennessee River.

No. MC 113495 (Sub-No. E3), filed June 3, 1974. Applicant: GREGORY HEAVY HAULER, INC., P.O. Box 60628, Nashville, Tenn. 37206. Applicant's representative: E. T. Gregory (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Structural steel, heavy machinery*, and *construction equipment*, the transportation of which, because of size or weight, requires the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment); and (2) *Such self-propelled articles*, each weighing 15,000 pounds or more, which may be included in heavy machinery and construction equipment, and related machinery, tools, parts, and supplies moving in connection therewith, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, and restricted to commodities which are transported on trailers, between points in Kentucky (except points in Ballard, Boone, Bracken, Calloway, Campbell, Carlisle, Carroll, Crittenden, Fulton, Gallatin, Grant, Graves, Henderson, Henry, Hickman, Kenton, Livingston, McCracken, Marshall, Oldham, Owen, Pendleton, Trimble, and Union Counties), on the one hand, and, on the other, points in Barry, Barton, Bates, Benton, Buchanan, Butler, Camden, Carter, Cass, Cedar, Christian, Clay, Dade, Dallas, Douglas, Dunklin, Greene, Henry, Hickory, Howell, Jackson, Jasper, Johnson, Laclede, Lawrence, McDonald, Mississippi, New Madrid, Newton, Oregon, Ozack, Pemiscot, Platte, Polk, Ripley, St. Clair, Webster, and Wright Counties, Mo. The purpose of this filing is to eliminate the gateway of points in Kentucky west of the Tennessee River.

No. MC 113495 (Sub-No. E4), filed June 3, 1974. Applicant: GREGORY HEAVY HAULER, INC., P.O. Box 60628, Nashville, Tenn. 37206. Applicant's representative: E. T. Gregory (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Structural steel, heavy machinery*, and *construction equipment*, the transportation of which, because of size or weight, requires the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment); and (2) *Such self-propelled articles*, each weighing 15,000 pounds or more, which may be included in heavy machinery and construction equipment, and related machinery, tools, parts, and supplies moving in connection therewith, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, and restricted to commodities which are transported on trailers, between points in Anderson, Bledsoe, Blount, Bradley, Campbell, Cannon, Carter, Cheatham, Claiborne, Clay, Cocke, Cumberland, Davidson, DeKalb, Fentress, Grainger, Greene, Hamblen, Hamilton, Hancock, Hawkins, Jackson, Jefferson, Johnson, Knox, Loudon, McMinn, Meigs, Monroe, Montgomery, Morgan, Overton, Pickett, Polk, Putnam, Rhea, Roane, Robertson, Rutherford, Scott, Sequatchie, Sevier, Smith, Sullivan, Sumner, Trousdale, Unicoi, Union, Van Buren, Warren, Washington, White, and Wilson Counties, Tenn., on the one hand, and, on the other, points in Missouri and points in Arkansas (except points in Arkansas, Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Craighead, Crittenden, Cross, Desha, Drew, Jackson, Jefferson, Lafayette, Lee, Lincoln, Lonoke, Mississippi, Monroe, Ouachita, Phillips, Poinsett, Prairie, St. Francis, Union, and Woodruff Counties). The purpose of this filing is to eliminate the gateway of points in Kentucky west of the Tennessee River.

No. MC 113495 (Sub-No. E5), filed June 3, 1974. Applicant: GREGORY HEAVY HAULER, INC., P.O. Box 60628, Nashville, Tenn. 37206. Applicant's representative: E. T. Gregory (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Structural steel, heavy machinery*, and *construction equipment*, the transportation of which, because of size or weight, requires the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment); and (2) *Such self-propelled articles*, each weighing 15,000 pounds or more, which may be included in heavy machinery and construction equipment, and related machinery, tools, parts, and supplies moving in connection therewith, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, and restricted to commodities which are transported on trailers, between points in Adair, Allen, Barren, Bell, Clay, Clinton, Cumberland, Harlan, Knox, Laurel, Leslie, Letcher, McCreary, Metcalfe, Monroe, Perry, Pulaski, Russell, Wayne, and Whitley Counties, Ky., on the one hand, and, on the other, points in Alexander, Jackson, Johnson, Massac, Pulaski, and Union Counties, Ill. The purpose of this filing is to eliminate the gateway of points in Kentucky west of the Tennessee River.

No. MC 113495 (Sub-No. E6), filed June 3, 1974. Applicant: GREGORY HEAVY HAULER, INC., P.O. Box 60628, Nashville, Tenn. 37206. Applicant's representative: E. T. Gregory (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Structural steel, heavy machinery*, and *construction equipment*, the transportation

of which, because of size or weight, requires the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment); and (2) *Such self-propelled articles*, each weighing 15,000 pounds or more, which may be included in heavy machinery and construction equipment, and related machinery, tools, parts, and supplies moving in connection therewith, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, and restricted to commodities which are transported on trailers, between points in Adams, Bond, Brown, Calhoun, Cass, Christian, Clinton, Fayette, Franklin, Fulton, Greene, Hancock, Henderson, Henry, Jefferson, Jersey, Johnson, Knox, Logan, Macoupin, Madison, Marion, Massac, Mason, McDonough, Menard, Mercer, Montgomery, Morgan, Peoria, Perry, Pike, Rock Island, Sangamon, Schuyler, Scott, Stark, Tazewell, Warren, Washington, and Williamson Counties, Ill., on the one hand, and, on the other, points in Tennessee (except points in Campbell, Claiborne, Clay, Dyer, Fentress, Grainger, Hancock, Hawkins, Jackson, Lake, Lauderdale, Macon, Morgan, Obion, Overton, Pickett, Scott, Tipton, and Union Counties). The purpose of this filing is to eliminate the gateway of points in Kentucky west of the Tennessee River.

No. MC 113495 (Sub-No. E7), filed June 3, 1974. Applicant: GREGORY HEAVY HAULER, INC., P.O. Box 60628, Nashville, Tenn. 37206. Applicant's representative: E. T. Gregory (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Structural steel, heavy machinery*, and *construction equipment*, the transportation of which, because of size or weight, requires the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment); and (2) *Such self-propelled articles*, each weighing 15,000 pounds or more, which may be included in heavy machinery and construction equipment, and related machinery, tools, parts, and supplies moving in connection therewith, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, and restricted to commodities which are transported on trailers, between points in Bedford, Benton, Bradley, Cannon, Carroll, Cheatham, Chester, Coffee, Crockett, Davidson, Decatur, Dickson, Dyer, Fayette, Franklin, Gibson, Giles, Grundy, Hamilton, Hardeman, Hardin, Haywood, Henderson, Henry, Hickman, Houston, Humphreys, Lake, Lauderdale, Lawrence, Lewis, Lincoln, Madison, Marion, Marshall, Maury, McNairy, Montgomery, Moore, Obion, Perry, Rutherford, Sequatchie, Shelby, Stewart, Tipton, Warren, Wayne, Weakley, Williamson, and Wilson Counties, Tenn., on the one hand, and, on the other, points in Boone, Cook, De Kalb, Du Page, Grundy, Kane, Kankakee, Kendall, Lake, La Salle, McHenry, and Will Counties, Ill. The purpose of this filing is to eliminate the gateway of points in Kentucky west of the Tennessee River.

No. MC 113495 (Sub-No. E8), filed June 3, 1974. Applicant: GREGORY HEAVY HAULER, INC., P.O. Box 60628, Nashville, Tenn. 37206. Applicant's representative: E. T. Gregory (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Structural steel, heavy machinery, and construction equipment*, the transportation of which, because of size or weight, requires the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment); and (2) *Such self-propelled articles*, each weighing 15,000 pounds or more, which may be included in heavy machinery and construction equipment, and related machinery, tools, parts, and supplies moving in connection therewith, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, and restricted to commodities which are transported on trailers, between points in Mecklenburg County, N.C., on the one hand, and, on the other, points in Vanderburgh County, Ind. The purpose of this filing is to eliminate the gateway of points in Kentucky west of the Tennessee River.

No. MC 113495 (Sub-No. E9), filed June 3, 1974. Applicant: GREGORY HEAVY HAULER, INC., P.O. Box 60628, Nashville, Tenn. 37206. Applicant's representative: E. T. Gregory (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Structural steel, heavy machinery, and construction equipment*, the transportation of which, because of size or weight, requires the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment); and (2) *Such self-propelled articles*, each weighing 15,000 pounds or more, which may be included in heavy machinery and construction equipment, and related machinery, tools, parts, and supplies moving in connection therewith, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, and restricted to commodities which are transported on trailers, between points in Crockett, Dyer, Fayette, Hardeman, Haywood, Lake, Madison, Obion, Shelby, and Tipton Counties, Tenn., on the one hand, and, on the other, points in Indiana. The purpose of this filing is to eliminate the gateway of points in Kentucky west of the Tennessee River.

No. MC 113495 (Sub-No. E12), filed June 3, 1974. Applicant: GREGORY HEAVY HAULER, INC., P.O. Box 60628, Nashville, Tenn. 37206. Applicant's representative: E. T. Gregory (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Structural steel, heavy machinery*, and *construction equipment*, the transportation of which, because of size or weight, requires the use of special equipment (excluding any transportation in connection with the stringing and picking up of pipeline materials or equipment); (2) *Such self-propelled articles*, each weighing 15,000 pounds or more, which may be included in heavy machinery and construction equipment, and *related machinery, tools, parts*, and *supplies* moving in connection therewith, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, and restricted to commodities which are transported on trailers, between points in Kentucky (except points in Ballard, Calloway, Carlisle, Fulton, Graves, Hickman, Marshall, and McCracken Counties), on the one hand, and, on the other, points in Arkansas (except points in Arkansas, Ashley, Chicot, Clay, Craighead, Crittenden, Cross, Desha, Drew, Greene, Lee, Lincoln, Mississippi, Monroe, Phillips, Poinsett, and St. Francis Counties). The purpose of this filing is to eliminate the gateway of points in Kentucky west of the Tennessee River.

No. MC 113495 (Sub-No. E13), filed June 3, 1974. Applicant: GREGORY HEAVY HAULER, INC., P.O. Box 60628, Nashville, Tenn. 37206. Applicant's representative: E. T. Gregory (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Road construction machinery and equipment*, the transportation of which because of size or weight requires the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment). (2) *Such self-propelled articles*, each weighing 15,000 pounds or more, which may be included in road construction machinery and equipment, and *supplies* moving in connection therewith, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal. Restrictions: Restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment. Restricted to commodities which are transported on trailers between points in the following counties in West Virginia: Greenbrier, McDowell, and Mercer, Monroe and Summers, on the one hand, and on the other, points in the following counties in Illinois: Alexander, Johnson, Massac, Pulaski, and Union Counties; and points in the following counties in Missouri: Barry, Barton, Bates, Benton, Bollinger, Buchanan, Butler, Caldwell, Camden, Cape, Girardeau, Carroll, Carter, Cass, Cedar, Christian, Clay, Clinton, Cooper, Crawford, Dade, Dallas, Dent, Douglas, Dunklin, Greene, Henry, Hickory, Howell, Iron, Jackson, Jasper, Johnson, Laclede, Lafayette, Lawrence,

Madison, Maries, McDonald, Miller, Mississippi, Moniteau, Morgan, New Madrid, Newton, Oregon, Ozark, Pemiscot, Pettis, Phelps, Platte, Polk, Pulaski, Ray, Reynolds, Ripley, St. Clair, Saline, Scott, Shannon, Stoddard, Stone, Taney, Texas Vernon, Webster, and Wayne Counties. The purpose of this filing is to eliminate the gateway of points in Virginia on and west of U.S. Highway 220 and points in Kentucky west of Tennessee River.

No. MC 113495 (Sub-No. E14), filed June 3, 1974. Applicant: GREGORY HEAVY HAULER, INC., P.O. Box 60628, Nashville, Tenn. 37206. Applicant's representative: E. T. Gregory (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Road construction machinery and equipment*, the transportation of which because of size or weight requires the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment). (2) *Such self-propelled articles*, each weighing 15,000 pounds or more, which may be included in road construction machinery and equipment, and *supplies* moving in connection therewith, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal. Restriction: Restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment. Restricted to commodities which are transported on trailers, between points in the following counties in West Virginia: Berkeley, Grant, Greenbrier, Hampshire, Hardy, Jefferson, McDowell, Mercer, Mineral, Monroe, Morgan, Pendleton, Pocahontas, Randolph, Summers, Tucker, and Wyoming Counties, on the one hand, and on the other, points in Arkansas. The purpose of this filing is to eliminate the gateway of points in Virginia on and west of U.S. Highway 220 and points in Kentucky west of the Tennessee River.

No. MC 113495 (Sub-No. E19), filed June 3, 1974. Applicant: GREGORY HEAVY HAULER, INC., P.O. Box 60628, Nashville, Tenn. 37206. Applicant's representative: E. T. Gregory (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Road construction machinery and equipment*, the transportation of which, because of size or weight, requires the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment). (2) *Such self-propelled articles*, each weighing 15,000 pounds or more, which may be included in road construction machinery and equipment, and supplies moving in connection therewith, except petroleum products and coal tar. Restriction: Restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment. Restricted to commodities which are transported on trailers, from points in Ohio, to points in the following counties in Tennessee: Anderson, Blount, Bradley, Claiborne, Cocke, Grainger, Hamblen, Hamilton, Jefferson, Knox, Loudon, McMinn, Meigs, Monroe, Polk, Rhea, Roane, Sevier and Union Counties. The purpose of this filing is to eliminate the gateway of points in Virginia on and west of U.S. Highway 220.

No. MC 113495 (Sub-No. E20), filed June 3, 1974. Applicant: GREGORY HEAVY HAULER, INC., P.O. Box 60628, Nashville, Tenn. 37206. Applicant's representative: E. T. Gregory (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Road construction machinery and equipment*, the transportation of which, because of size or weight, requires the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment). (2) *Such self-propelled articles*, each weighing 15,000 pounds or more, which may be included in road construction machinery and equipment, and *supplies* moving in connection therewith, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal. Restriction: Restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment. Restricted to commodities which are transported on trailers from points in the following counties in Ohio: Ashtabula, Belmont, Carroll, Columbiana, Cuyahoga, Geauga, Guernsey, Harrison, Jefferson, Lake, Mahoning, Monroe, Noble, Portage, Stark, Summit, Trumbull, Tuscarawas, and Washington Counties, to points in the following counties in Tennessee: Bledsoe, Coffee, Cumberland, Franklin, Grundy, Marion, Van Buren, and Warren Counties. The purpose of this filing is to eliminate the gateway of points in Virginia on and west of U.S. Highway 220.

No. MC 113495 (Sub-No. E21), filed June 3, 1974. Applicant: GREGORY HEAVY HAULER, INC., P.O. Box 60628, Nashville, Tenn. 37206. Applicant's representative: E. T. Gregory (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Road construction machinery and equipment*, the transportation of which, because of size or weight, requires the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment). (2) *Such self-propelled articles*, each weighing 15,000 pounds or more, which may be included in road construction machinery and equipment, and *supplies* moving in connection therewith, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal. Restriction: Restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment. Restricted to commodites which are transported on trailers; from points in the following counties in Ohio: Ashland, Ashtabula, Belmont, Carroll, Columbiana, Coshocton, Crawford, Cuyahoga, Delaware, Erie, Geauga, Guernsey, Harrison, Holmes, Huron, Jefferson, Knox, Lake, Licking, Lorain, Lucas, Mahoning, Marion, Medina, Monroe, Morgan, Morrow, Muskingum, Noble, Ottawa, Portage, Richland, Sandusky, Seneca, Stark, Summit, Trumbull, Washington, Wayne, Wood, and Wynadot Counties, to points in the following counties in Kentucky: Bell, Harlan, Knott, Leslie, Letcher, and Perry Counties. The purpose of this filing is to eliminate the gateway of points in Virginia on and west of U.S. Highway 220.

No. MC 113495 (Sub-No. E22), filed June 3, 1974. Applicant: GREGORY HEAVY HAULER, INC., P.O. Box 60628, Nashville, Tenn. 37206. Applicant's representative: E. T. Gregory (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Road construction machinery and equipment*, the transportation of which, because of size or weight, requires the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment). (2) *Such self-propelled articles*, each weighing 15,000 pounds or more, which may be included in road construction machinery and equipment, and *supplies* moving in connection therewith, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal. Restriction: Restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment. Restricted to commodities which are transported on trailers; from points in Ohio (except points in Adams, Brown, Butler, Claremont, Clinton, Darke, Greene, Hamilton, Highland, Lawrence, Mercer, Miami, Montgomery, Pike, Preble, Scioto, and Warren Counties), to that portion of North Carolina on and west of a line beginning at the North Carolina-Virginia State line and extending along U.S. Highway 226 to Rockingham, North Carolina and thence along U.S. Highway 1 to the North Carolina-South Carolina State line (except points in Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain, and Transylvania Counties). The purpose of this filing is to eliminate the gateway of points in Virginia on and west of U.S. Highway 220.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-11196 Filed 4-28-75;8:45 am]

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PART II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Housing Production and Mortgage Credit

■

SECTION 8 HOUSING ASSISTANCE PAYMENT PROGRAM; SUBSTANTIAL REHABILITATION

Title 24—Housing and Urban Development

CHAPTER VIII—LOW INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-75-304]

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENT PROGRAM—NEW CONSTRUCTION

The Department of Housing and Urban Development (HUD), gave notice on December 30, 1974, at 39 FR 45169 that it was amending Title 24 of the Code of Federal Regulations by adding a new Part 1273 to Chapter VIII, effective January 1, 1975.

HUD is renumbering all Parts of Chapter VIII. The regulations below change from Part 1273 to Part 880. All references below are to the new Part numbers.

Part 880 sets forth the essential elements of the Housing Assistance Payments Program for New Construction, including the roles and responsibilities of HUD, public housing agencies (PHAs), developers, Owners and Eligible Lower- and Very Low-Income Families, the basis for determining the amount of housing assistance payments, and the prescribed contracts.

Proposed regulations for the Section 8 New Construction Program were published for comment on November 19, 1974. The comment period was limited to fifteen days because of the statutory requirement that the regulations be made effective by January 1, 1975. In the December 30, 1974, publication of the final regulations HUD solicited additional comments for a period of 30 days.

HUD has received 15 responses to the December 30, 1974, publication. All comments were carefully considered and changes have been made to the regulations, as set forth below, based on these and earlier comments. A discussion of the principal changes and of the more recurrent and significant comments is set forth below. It includes comments in response to the November 19, 1974, publication and the December 30, 1974, publication.

1. To facilitate understanding and referencing, §§ 1273.103 (Basic Policies) and 1273.218 (Project Operation) have been renumbered to give separate section numbers to the paragraphs within them (see §§ 880.103–880.123 and 880.218–880.227, respectively).

2. Some comments pertained to other regulations. For example, comments concerning Fair Market Rents pertain to regulations relating to such rents, 24 CFR Part 888. Similarly, comments concerning computation of income for purposes of determining eligibility and amount of Gross Family Contribution pertain to the regulations concerning these determinations, 24 CFR Part 889.

3. Comments objected to the definition of "new construction," as set forth in § 880.101(b), as being too restrictive. Some urged that recently-completed housing be eligible under Part 880 provided that no more than 40 percent of the units are occupied. HUD's authority to provide assistance payments with respect to newly-constructed housing is limited by section 8(b)(2) of the United States Housing Act of 1937 (USHAct), which states, "the Secretary is authorized to make assistance payments pursuant to contracts with owners or prospective owners who agree to construct or substantially rehabilitate housing." (emphasis added). Under this provision, housing which is not constructed pursuant to an Agreement to Enter into a Housing Assistance Payments Contract (Agreement) may not be eligible under Part 880. Such housing may be eligible, however, under the Section 8 Existing Housing Program, 24 CFR Part 882, which provides for the use of recently-completed housing under certain circumstances (see 24 CFR, § 882.125).

4. A definition of "Minimum Property Standards" for New Construction has been added to § 880.102. The term means HUD's Minimum Property Standards or others which the Secretary finds are equivalent to or exceed HUD's standards.

5. Many comments argued that § 880.105(a) should be modified to provide for a separate fee to the Owner for the cost of administration. These comments pointed out that the owner has additional administrative responsibilities, such as making determinations of Family eligibility and amount of the Gross Family Contribution, beyond his management and maintenance duties, which should be compensated for. In HUD's opinion, the Owner should meet all of his costs on the basis of Contract Rents comparable to rents charged for unassisted units. Although an Owner may have duties under this program which exceed those for unassisted housing, he has compensating advantages in payment assurances provided for temporary vacancies, long-term commitments covering increases in costs, and reliability of housing assistance payments backed up by the commitment of the U.S. Government.

6. Comments suggested that additional assurances should be provided in §§ 880.105 and 880.106 concerning increases in housing assistance payments. The sections have been revised so that whenever a HUD-approved estimate of required housing assistance payments for a fiscal year exceeds the maximum commitment under the Housing Assistance Payments Contract (Contract) or the Annual Contributions Contract (ACC), respectively, and would cause the amount in the Project Account to be less than 40 percent of the maximum commitment, HUD will take additional steps authorized by section 8(c)(6) of USHAct to assure that housing assistance payments will be increased within a reasonable period of time.

7. Comments recommended that the 60-day limit on payments to Owners for vacant units (see §§ 880.107(b) and 880.107(c)) be eliminated. The limit is required by section 8(c)(4) of the USH Act which states, "* * * payments may be made with respect to unoccupied units for a period not exceeding 60 days."

8. Many comments proposed that the amount of housing assistance payments for vacant units be increased from 80 to 100 percent of the Contract Rent for such units. Some comments challenged the legal authority of HUD to limit the payments and others expressed doubt that the Contract would provide adequate security without 100 percent coverage. In the regulations published on December 30, 1974, HUD responded to similar prior comments by increasing the percentage from 70 to 80. Section 8(c)(4) of the USH Act does not require assistance payments for vacant units, but only authorizes such payments as permissible. Therefore HUD should attempt to implement this provision with the least amount of Federal expenditure. HUD has concluded that a further increase would reduce the incentive of the Owner to keep the Contract units under lease and is not necessary to provide adequate security to the Owner.

9. Section 880.108(b), which deals with the reasonableness of initial Contract Rents, has been modified to indicate that where tax-exempt financing is used, Contract Rents may be reduced appropriately to reflect any resulting savings. The interest savings from the tax-exempt financing is the result of favorable tax treatment by the Federal Government which provides the subsidy. Section 880.108(c), which related to Contract Rents for HUD-insured projects, has been deleted (see also paragraphs 21 and 22(b) of this preamble).

10. Comments objected to the fact that the Contract term with respect to a project owned by, or financed by a loan guarantee from, a State or local agency could be limited to less than 40 years, the maximum authorized under section 8 for such a project. The comments pointed out that such a limitation could make financing difficult to obtain. In response to these comments, § 880.109(b) has been modified to provide that the total Contract term for such projects will be related to the term of the financing, not to exceed 40 years for any dwelling unit.

11. Some comments argued that the provision which authorizes special additional adjustments, § 880.110(c), is too restrictive of the types of costs for which adjustments may be provided. Some comments proposed that special additional adjustments cover all costs not covered by the automatic annual adjustments. The statutory authority for these adjustments (section 8(c)(2)(B) of the USH Act) is restricted to "real property taxes, utility rates or similar costs." The regulations also limit special adjustments to real property taxes, utilities and similar costs and defines "similar costs" to mean "assessments, and utilities not covered by regulated rates." This definition is consistent with the types of costs specifically enumerated in the statutory provision.

12. In response to comments, HUD has eliminated the provision in § 880.111(a) that housing developed for use in this program should correspond to the predominant housing structure and density patterns of the locality.

13. Comments objected to the requirement of § 880.117(b) that the Owner maintain at least 30 percent occupancy of Contract units by Very-Low Income Families. It was suggested that the requirement be eliminated at least for small projects and not be applied on a project-by-project basis. Section 8(c)(7) of the USHAct requires that 30 percent of the Families assisted under section 8 be Very-Low Income Families. Flexibility is permitted for projects developed under the Housing Finance and Development Agencies Program, 24 CFR Part 883, in which the required percentage may vary among projects provided the average for all projects administered by the agency is 30 percent. For projects under the other section 8 programs, the only administratively feasible method of complying with the statute is to apply the 30 percent requirement to each project.

14. Several comments objected that the definitions of "large family" and "very large family", as used in § 880.118 for purposes of identifying those Families for whom housing assistance payments will equal the difference between 15 percent of gross income and the Gross Rent, is too restrictive. The term "large family" is defined as a family which includes six or more minors (other than head of household or the spouse) and the term "very large family" is defined as a family which includes eight or more such members. The comments indicated concern that Families which do not fall within one of these defined categories may be required to pay 25 percent of their gross income toward Gross Rent. This concern is based upon a misunderstanding. HUD has published separate interim regulations covering the determination of Gross Family Contribution (see 40 FR 15541; 24 CFR Part 889). These regulations provide for allowances based on the number of minors (and other factors) to be deducted from the Family's income and for determining the amount of contribution by applying a percentage (25 percent) to the income after making this deduction. Consequently, the amount of the required Gross Family Contribution will take into account the number of minors. The minimum amount will be 15 percent of the Family income before allowances. Many families which do not fall within one of the categories for which a 15 percent contribution rate is required by the USH Act will qualify for the 15 percent rate under this method. Therefore, HUD has limited the definitions of Families who automatically qualify for the 15 percent rate to those in extremely difficult circumstances. HUD believes that this method provides the needed flexibility for differences in size of Family, is administratively feasible, and is responsive to the statutory requirements.

15. Many comments objected to § 880.119(b), the provisions which prohibit the entity which is responsible for administering the Contract (e.g., the PHA in the case of a Private-Owner/PHA Project) from performing the management and maintenance for the same projects. This prohibition is retained in order to avoid the conflict of interest which would exist if the entity which is the Contract administrator, and therefore responsible for enforcement of compliance with management and maintenance requirements, were itself the entity whose compliance must be evaluated and enforced. The regulations pursuant to § 880.124(b) permit the conversion of a Private-Owner/PHA Project to a Private-Owner Project (i.e., the transfer of the responsibility of administering the Contract from the PHA to HUD). After such conversion, the PHA would no longer be precluded from providing management and maintenance services.

16. New §§ 880.120(b) and 880.121(b) have been added to clarify (a) the rights of HUD and, where appropriate, the rights and obligations of the PHA for determinations of Owner defaults under the Contract and the taking of corrective action, and (b) in the case of a Private-Owner/PHA Project, the rights of the Owner in the event of failure of the PHA to comply with the Contract. (See also Sections 2.16 and 2.17 of the ACC and Sections 2.7 and 2.9 of the Contract.)

17. A new § 880.125, relating to projects for which the interim and permanent financing is provided by a public agency or other entity from the proceeds of the sale of bonds or notes, has been added. This section requires HUD approval of financing documents and submission of certifications by the financing agency concerning, among other things, the projected borrowing and lending rates and the spread, if any, between these rates. It also requires the financing agency to certify that any spread between the actual borrowing and lending rates will be no greater than the projected spread nor greater than the spread allowed for the borrowing as a whole under applicable Department of Treasury regulations regarding arbitrage or applicable HUD regulations under section 11(b) of the USHAct. The financing agency must also certify that the terms of financing, amount of obligations issued with respect to the project, and use of funds raised will be in compliance with applicable Treasury and HUD regulations. Section 880.125 also requires recoupment of savings in financing cost to the Owner where the interest cost of the interim financing is less than the anticipated cost of the debt service under the permanent financing. It requires reduction in the Contract Rents where the amount of actual debt service is lower than the anticipated debt service on which the Contract Rents were based; and it clarifies the status of the Contract in the event of foreclosure and assignment or sale.

18. Comments suggested that the procedures under which Preliminary Proposals are invited and selected (see §§ 880.203–880.208) be changed so that HUD may negotiate with developers without advertising for proposals and making selections on a competitive basis. The provisions requiring the published Invitation for Preliminary Proposals and competitive ranking and selection have been retained to provide an opportunity for all interested parties to submit Preliminary Proposals, to encourage the submission of approvable Proposals with reasonable Contract Rents, and to provide a broad range of Proposals from which those which best satisfy the goals of the section 8 program may be selected.

19. A new § 880.203(d) permits selection of an Owner for a site that has been predetermined or preapproved by HUD as a site specifically designated for a section 8 project, such as an urban renewal site identified for such use.

20. Sections 880.204(c)(14) and 880.208(g)(3) have been modified to permit an Owner to submit, simultaneously with the submission of the Preliminary Proposal or at any time prior to Notification of Selection or Nonselection, a Final Proposal or a Final Proposal and the architect's certification (in accordance with § 880.211(b)).

21. Section 880.207(a), which concerns processing of a HUD–FHA mortgage insurance application in advance of the section 8 Preliminary and Final Proposals, has been modified so that the Contract Rents which may be approved for the section 8 program will at least equal the previously approved rents which were used in processing the mortgage insurance application.

22. Section 880.207(b) which concerns concurrent processing of HUD–FHA mortgage insurance applications and section 8 Preliminary and Final Proposals has been modified (a) to permit the submission of an application for Firm Commitment (in lieu of the Conditional Commitment) under the applicable mortgage insurance program, with the Final Proposal; and (b) so that the rents of those units scheduled for assisted occupancy, when projected for the purpose of determining a mortgage limitation based on the debt service criteria, may be less than but may not exceed the Contract Rents set forth in the approved Final Proposal.

23. Section 880.208(a), which sets forth procedures for initial screening of Preliminary Proposals by HUD, has been clarified and modified to permit rejection without further evaluation if the Preliminary Proposal does not include or is deficient in identification of the proposed site, description of the proposed housing, or the proposed Contract Rents.

24. Section 880.209(a)(2), relating to contents of Final Proposal, has been revised to permit general floor plan and elevation drawings at a scale of ⅛ inch per foot rather than ¼ inch per foot.

25. Section 880.215(c), relating to changes from the approved Final Proposal, has been revised so that changes or modifications required by changes in local codes or ordinances, subsequent to the execution of the Agreement, may be reflected in increases in the Contract Rents if HUD approval is obtained prior to incorporation of such changes in the project.

A Finding of Inapplicability with respect to the National Environmental

Policy Act of 1969 has been made with respect to these regulations. A copy of this finding is available for public inspection during regular business hours in the office of the Rules Docket Clerk, Room 10245, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C.

These regulations are effective April 29, 1975.

Accordingly, 24 CFR Part 880 is amended by revising the title to read as set forth above and by amending the entire text to read as follows:

Subpart A—Applicability, Scope and Basic Policies

NOTE—Various prescribed forms which relate to internal HUD processing procedures are not included herein, but will appear in the HUD New Construction Handbook.

AUTHORITY: Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); Sec. 5(b), U.S. Housing Act of 1937 (42 U.S.C. 1437c(b)); sec. 8, U.S. Housing Act of 1937 (42 U.S.C. 1437f)

Subpart A—Applicability, Scope and Basic Policies

§ 880.101 Applicability and scope.

(a) The policies and procedures contained herein are applicable to the making of Housing Assistance Payments on Behalf of Eligible Families leasing newly constructed housing pursuant to the provisions of section 8 of the U.S. Housing Act of 1937 ("Act").

(b) For the purpose of this part, "new construction" shall mean newly constructed housing for which, prior to the start of construction, an Agreement to Enter into Housing Assistance Payments Contract is executed between the Owner and the Department of Housing and Urban Development ("HUD") or the Public Housing Agency. However, housing already under construction may be eligible for participation if all subsequent actions are in compliance with this Part and if the Owner certifies and demonstrates to the satisfaction of HUD that:

(1) At the date of application to HUD, a substantial amount of construction (generally at least 25 percent) remains to be completed; and

(2) At the date of application to HUD, the project cannot be completed without a commitment for assistance under this Part; and

(3) At the time construction was initiated, all of the parties reasonably expected that the project would be completed without assistance under this Part.

(c) Conversions of section 23 projects to the section 8 program will be permitted where appropriate, provided that all parties (including HUD) agree to the terms and conditions.

§ 880.102 Definitions.

Agreement to enter into Housing Assistance Payments Contract ("Agreement"). (a) In the case of a Private-Owner Project or a PHA-Owner Project, a written agreement between the Owner and HUD that, upon satisfactory completion of the housing in accordance with the HUD-approved Final Proposal, HUD will enter into a Housing Assistance Payments Contract with the Owner. (See Appendix I to this part.)

(b) In the case of a Private-Owner/PHA Project, a written agreement between the private Owner and the PHA, approved by HUD, that, upon satisfactory completion of the housing in accordance with the HUD-approved Final Proposal, the PHA will enter into a Housing Assistance Payments Contract with the private Owner. (See Appendix IV to this part.)

Allowance for utilities and other services ("Allowance"). An amount determined or approved by HUD as an allowance for the cost of utilities (except telephone) and charges for other services payable directly by the Family. In the case of a proposal under which the Families must pay directly for one or more utilities or services, the amount of the Allowance is deducted from the Gross Rent in determining the Contract Rent and is included in the Gross Family Contribution.

Annual Contributions Contract ("ACC"). In the case of a Private-Owner/PHA Project, a written agreement between HUD and the PHA to to provide annual contributions to the PHA with respect to the project. (See Appendix III to this part.)

Contract. See definition of Housing Assistance Payments Contract.

Contract Rent. The rent payable to the Owner under his Contract including the portion of the rent payable by the Family. In the case of a cooperative, the term "Contract Rent" means charges under the occupancy agreements between the members and the cooperative.

Decent, Safe, and Sanitary. Housing is Decent, Safe, and Sanitary at project completion if the dwelling units and related facilities are accepted by HUD as

meeting the requirements of the Agreement. (See § 880.216.) Housing continues to be Decent, Safe, and Sanitary if it is being maintained in a condition substantially the same as that on acceptance, in all pertinent respects, including the following:

(a) Condition of the exterior (including the grounds) and the interior of the structure and of the housing unit;

(b) Operating condition of sanitary facilities and of solid and liquid waste disposal facilities;

(c) Operating condition of kitchen facilities, including range and refrigerator, sink, and space for storage of food and for storage of utensils and dishes;

(d) Operating condition of heating, lighting and ventilating equipment and/or other facilities; and

(e) Size, number of rooms, and furnishability in relation to the size and type of Family in occupancy in accordance with any applicable State or local codes.

Eligible Family ("Family"). A Family which qualifies as a Lower-Income Family and which meets the other requirements of the Act and this part. The term Family includes an elderly, handicapped, disabled, or displaced person and the remaining member of a tenant family as defined in section 3(2) of the Act. A Family's eligibility for housing assistance payments continues until its Gross Family Contribution equals the Gross Rent for the dwelling unit it occupies, but the termination of eligibility at such point shall not affect the family's other rights under its Lease nor shall such termination preclude resumption of payments as a result of subsequent changes in Income or other relevant circumstances during the term of the Contract.

Fair Market Rent. (a) The rent, including utilities (except telephone), ranges and refrigerators, parking, and all maintenance, management and other services, which, as determined at least annually by HUD, would be required to be paid in order to obtain privately developed and owned, newly constructed rental housing of modest (non-luxury) nature with suitable amenities and sound architectural design meeting the objectives of the HUD Minimum Property Standards.

(b) Separate Fair Market Rents will be established for dwelling units by various sizes (number of bedrooms) and types (e.g., elevator, row, detached, mobile homes; housing designed for the elderly or handicapped shall be a separate type for this purpose).

(c) The Fair Market Rents will be published in the FEDERAL REGISTER, and, in order to allow for the period of construction, computation of the published Fair Market Rents will include HUD's estimate of anticipated rent increases during an appropriate future period as stated in the publication. Accordingly, for any given project for which the scheduled construction time will be less than such future period, an appropriate reduction will be made in determining the approvable Contract Rent.

(d) The Fair Market Rent, minus the amount of any applicable Allowance for Utilities and Other Services payable directly by the Family, shall be the maximum amount that can be approved as the Contract Rent, except that the maximum approvable amount may be lower as stated in paragraph (c) of this definition and may be higher or lower as provided in § 880.108.

Final Proposal. A proposal to provide newly constructed housing submitted in response to a HUD notification of selection of Preliminary Proposal.

Gross Family Contribution. The portion of the Gross Rent payable by an Eligible Family, i.e., the difference between the amount of the housing assistance payment payable on behalf of the Family and the Gross Rent.

Gross Rent. The Contract Rent plus any Allowance for Utilities and Other Services.

HCD Act. The Housing and Community Development Act of 1974.

Housing Assistance Payments Contract ("Contract"). (a) In the case of a Private-Owner Project or a PHA-Owner Project, a written contract between the Owner and HUD for the purpose of providing housing assistance payments to the Owner on behalf of Eligible Families. (See Appendix II to this part.)

(b) In the case of a Private-Owner/PHA Project, a written contract between the private Owner and the PHA, approved by HUD, for the purpose of providing housing assistance payments to the Owner on behalf of Eligible Families. (See Appendix V to this part.)

Housing Assistance Payment on Behalf of Eligible Family. The amount of housing assistance payment on behalf of an Eligible Family determined in accordance with schedules and criteria established by HUD. (See § 880.118.)

HUD. The Department of Housing and Urban Development or its designee.

Income. Income from all sources of each member of the household as determined in accordance with criteria established by HUD.

Invitation for Preliminary Proposals—New Construction ("Invitation for Preliminary Proposals"). A notice published by HUD inviting the submission of Preliminary Proposals in accordance with this Part. (See Sec. 880.203.)

Lease. A written agreement between an Owner and an Eligible Family for the leasing of a Decent, Safe, and Sanitary dwelling unit in accordance with the applicable Contract, which agreement is in compliance with the provisions of this Part.

Local Housing Assistance Plan. A housing assistance plan submitted by a unit of general local government and approved by HUD under section 104 of the HCD Act or, in the case of a unit of general local government not participating under Title I of the HCD Act, a housing plan which contains the elements set forth in section 104(a)(4) of the HCD Act and which is approved by the Secretary as meeting the requirements of section 213 of that Act.

Lower-Income Family. A family whose Income does not exceed 80 percent of the median Income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish Income limits higher or lower than 80 percent on the basis of its findings that such variations are necessary because of the prevailing levels of construction costs, unusually high or low Incomes, or other factors.

Minimum Property Standards. HUD Minimum Property Standards or standards which the Secretary finds are equivalent to or exceed such HUD standards.

New Communities. New community developments approved under Title IV of the Housing and Urban Development Act of 1968 and Title VII of the Housing and Urban Development Act of 1970.

Owner. Any private person or entity, including a cooperative, or a PHA, having the legal right to lease or sublease newly constructed dwelling units.

PHA-Owner Proposal and PHA-Owner Project. A proposal for a project under this Part (and the resulting project) to be owned by a PHA throughout the term of the Agreement and Contract where such Agreement and Contract are to be entered into between the PHA and HUD.

Preliminary Proposal. A proposal to provide newly constructed housing submitted in response to a HUD Invitation for Preliminary Proposals.

Private-Owner/PHA Proposal and Private-Owner/PHA Project. A proposal for a project under this Part (and the resulting project) to be owned by a private Owner throughout the term of the Agreement and Contract where such Agreement and Contract are to be entered into between the private Owner and the PHA pursuant to an ACC between the PHA and HUD.

Private-Owner Proposal and Private-Owner Project. A proposal for a project under this Part (and the resulting project) to be owned by a private Owner throughout the term of the Agreement and Contract where such Agreement and Contract are to be entered into between the private Owner and HUD.

Project Account. The account established and maintained in accordance with §§ 880.105 or 880.106.

Public Housing Agency ("PHA"). Any State, county, municipality, or other governmental entity or public body, (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of housing for low-income Families.

Secretary. The Secretary of Housing and Urban Development.

Very Low-Income Family. A family whose Income does not exceed 50 percent of the median Income for the area, as determined by HUD, with adjustments for smaller or larger families.

§ 880.103 Demonstration of need for new construction projects; compliance with Section 213 of HCD Act.

(a) New construction projects shall be permitted only where: (1) HUD determines that there is not and there is not

likely soon to be an adequate supply of existing housing which, with the aid of housing assistance payments provided under the Section 8 Housing Assistance Payments Program—Existing Housing, can meet the needs of Eligible Families, or (2) the proposed project is specifically approved by HUD in accordance with priorities established from time to time by the Secretary including priorities for New Communities.

(b) No proposal for section 8 housing may be approved unless HUD requirements implementing sections 213(a), (b), and (c) of the HCD Act have been satisfied.

§ 880.104 Preference for certain types of projects.

(a) *20 Percent Projects.* Assistance payments may be made with respect to up to 100 percent of the dwelling units in any structure or project. However, within the category of projects that are not designed for use primarily by the elderly and the handicapped and which involve the construction of more than 50 units, a preference will be provided for projects in which housing assistance will be limited to 20 percent or less of the units. (See § 880.208(e)(1).)

(b) *Three or more bedroom Projects.* Where the need for dwelling units of three or more bedroom size ("large dwelling units") is shown, each HUD field office shall be responsible, to the extent feasible, for inviting and selecting proposals which in the aggregate will achieve the goal of providing a number of large dwelling units equal to at least 20 percent of all the assisted units approved under the Section 8 Housing Assistance Payments Program, without undue concentration of such large dwelling units in any one location.

§ 880.105 Maximum total Annual Contract Commitment and Project Account (Private-Owner or PHA-Owner Projects).

(a) *Maximum Total Annual Contract Commitment.* The maximum total annual housing assistance payments that may be committed under the Contract shall be the total of the Gross Rents for all the Contract units in the project.

(b) *Project Account.* In order to assure that housing assistance payments will be increased on a timely basis to cover increases in Contract Rents or decreases in Family Incomes:

(1) A Project Account shall be established and maintained, in an amount as determined by the Secretary consistent with his responsibilities under section 8(c)(6) of the Act, out of amounts by which the maximum annual Contract commitment per year exceeds amounts paid under the Contract for any year. This account shall be established and maintained by HUD as a specifically identified and segregated account, and payment shall be made therefrom only for the purposes of (i) housing assistance payments, and (ii) other costs specifically authorized or approved by the Secretary.

(2) Whenever a HUD-approved estimate of required housing assistance payments for a fiscal year exceeds the maximum annual Contract commitment, and would cause the amount in the Project Account to be less than an amount equal to 40 percent of such maximum annual Contract commitment, HUD shall, within a reasonable period of time, take such additional steps authorized by section 8(c)(6) of the Act as may be necessary to carry out this assurance, including (as provided in that section of the Act) "the reservation of annual contributions authority for the purpose of amending housing assistance contracts or the allocation of a portion of new authorizations for the purpose of amending housing assistance contracts."

§ 880.106 Maximum Total ACC Commitment and Project Account (Private-Owner/PHA Projects).

(a) *Maximum Total ACC Commitment.* The maximum total annual contribution that may be contracted for in the ACC for a project shall be the total of the Gross Rents for all the Contract units in the project, plus a fee for the regular costs of PHA administration. HUD-approved preliminary costs for administration (including administrative costs in connection with PHA activities related to relocation of occupants) shall be payable out of this total.

(b) *Project Account.* In order to assure that housing assistance payments will be increased on a timely basis to cover increases in Contract Rents or decreases in Family Incomes:

(1) A Project Account shall be established and maintained, in an amount as determined by the Secretary consistent with his responsibilities under section 8(c)(6) of the Act, out of amounts by which the maximum ACC commitment per year exceeds amounts paid under the ACC for any year. This account shall be established and maintained by HUD as a specifically identified and segregated account, and payment shall be made therefrom only for the purposes of (i) housing assistance payments and (ii) other costs specifically authorized or approved by the Secretary.

(2) Whenever a HUD-approved estimate of required Annual Contribution exceeds the maximum ACC commitment then in effect, and would cause the amount in the Project Account to be less than an amount equal to 40 percent of such maximum ACC commitment, HUD shall, within a reasonable period of time, take such additional steps authorized by section 8(c)(6) of the Act as may be necessary to carry out this assurance, including (as provided in that section of the Act) "the reservation of annual contributions authority for the purpose of amending housing assistance contracts or the allocation of a portion of new authorizations for the purpose of amending housing assistance contracts."

§ 880.107 Housing assistance payments to owners.

(a) *General.* Housing assistance payments shall be paid to Owners for units under lease by Eligible Families, in accordance with the Contract and as provided in this section. These housing assistance payments will cover the difference between the Contract Rent and the portion of said rent payable by the Family as determined in accordance with the HUD-established schedules and criteria. No section 8 assistance may be provided for any unit occupied by an Owner; however, cooperatives are considered rental housing rather than owner-occupied housing for this purpose.

(b) *Vacancies During Rent-up.* If a Contract unit is not leased as of the effective date of the Contract, the Owner shall be entitled to housing assistance payments in the amount of 80 percent of the Contract Rent for the unit for a vacancy period not exceeding 60 days from the effective date of the Contract, in accordance with the procedure set forth in § 880.217(b): *Provided,* That the Owner (1) commenced marketing and otherwise complied with § 880.215(f), (2) has taken and continues to take all feasible actions to fill the vacancy, including, but not limited to, contacting applicants on his waiting list, if any, requesting the PHA and other appropriate sources to refer eligible applicants, and advertising the availability of the unit, and (3) has not rejected any eligible applicant, except for good cause acceptable to HUD or the PHA, as the case may be.

(c) *Vacancies After rent-up.* (1) If an Eligible Family vacates its unit (other than as a result of action by the Owner which is in violation of the Lease or the Contract or any applicable law), the Owner shall receive housing assistance payments in the amount of 80 percent of the Contract Rent for a vacancy period not exceeding 60 days; *provided, however,* That if the Owner collects any of the Family's share of the rent for this period in an amount which, when added to the 80 percent payments, results in more than the Contract Rent, such excess shall be payable to HUD or as HUD may direct. (See also § 880.116.) The Owner shall not be entitled to any payment under this paragraph (c)(1) unless he: (i) Immediately upon learning of the vacancy, has notified HUD or the PHA, as the case may be, of the vacancy or prospective vacancy and the reasons for the vacancy, and (ii) has taken and continues to take the actions specified in paragraphs (b)(2) and (b)(3) of this section.

(2) If the Owner evicts an Eligible Family, he shall not be entitled to any payment under paragraph (c)(1) of this section unless the request for such payment is supported by a certification that (i) he gave such Family a written notice of the proposed eviction, stating the grounds and advising the Family that it had 10 days within which to present its objections to the Owner in writing or in person and (ii) the proposed eviction was not in violation of the Lease or the Contract or any applicable law.

(d) *Prohibition of double compensation for vacancies.* The Owner shall not be entitled to housing assistance pay-

ments with respect to vacant units under this section to the extent he is entitled to payments from other sources (for example, payments for losses of rental income incurred for holding units vacant for relocatees pursuant to Title I of the HCD Act or payments under § 880.116).

§ 880.108 Initial Contract Rents.

(a) *Fair Market Rent Limitation.* The sum of the initial Contract Rents and any Allowances for Utilities and Other Services shall not exceed the Fair Market Rents for newly constructed rental housing, except that they may be exceeded (1) by up to 10 percent if the field office director determines that special circumstances warrant such higher rents and the higher rents meet the test of reasonableness in paragraph (b) of this section, or (2) by up to 20 percent, where the Assistant Secretary for Housing Production and Mortgage Credit determines that special circumstances warrant such higher rents or determines that such higher rents are necessary to the implementation of a Local Housing Assistance Plan, and that such higher rents meet the test of reasonableness in paragraph (b) of this section.

(b) *Reasonableness of Rents.* In any case, the Contract Rents as proposed must be determined by HUD to be reasonable in relation to the quality, location, amenities, and management and maintenance services of the project, and proposed rents shall be subject to reduction if they are found to be higher than such reasonable rents. Appropriate reductions to reflect any savings where tax-exempt financing is involved may be made.

§ 880.109 Term of Housing Assistance Payments Contract.

(a) A Contract may be for an initial term of not more than five years, with an option solely in the Owner to renew for additional terms of not more than five years each, provided that the total Contract term, including renewals, shall not exceed 20 years for any dwelling unit.

(b) In the case of a Contract under which housing assistance payments are made with respect to a project owned by, or financed by a loan or loan guarantee from, a State or local agency, the total Contract term may be equal to the term of such financing but may not exceed 40 years for any dwelling unit.

(c) In the case of mobile homes, the initial Contract term for any mobile home shall be for not more than five years, subject to renewal for additional terms of not more than five years each, as may be mutually agreed upon by the Owner and HUD or, in the case of a Private-Owner/PHA Project, by the Owner and the PHA with the approval of HUD: *Provided,* That the total Contract term for any mobile home shall not exceed 20 years. For purposes of this paragraph (c), the term "mobile home" means the original mobile home and any replacement(s), combined. In the case of any project under this paragraph (c), notwithstanding the maximum total allowable term per unit stated therein, a shorter term shall be determined by HUD where appropriate, taking into account the amount of the capital expenditures reasonably required for the project, the reasonable period and rate of amortization for the financing, and the approved rents to the Owner.

(d) If the project is completed in stages, the dates for the initial and the renewal terms shall be separately related to the units in each stage: *Provided, however,* That the total Contract term for the units in all the stages, beginning with the effective date of the Contract with respect to the first stage, may not exceed the overall maximum term allowable for any one unit, plus two years.

§ 880.110 Rent adjustments.

(a) *Funding of Adjustments.* Housing assistance payments will be made in increased amounts commensurate with Contract Rent adjustments under this paragraph, up to the maximum amount authorized under the Contract. (See §§ 880.105 and 880.106.)

(b) *Automatic Annual Adjustments.* (1) Automatic Annual Adjustment Factors will be determined by HUD at least annually; interim revisions may be made as market conditions warrant. Such Factors and the basis for their determination will be published in the FEDERAL REGISTER. These published Factors will be reduced appropriately by HUD where utilities are paid directly by Families.

(2) On each anniversary date of the Contract, the Contract Rents shall be adjusted by applying the applicable Automatic Annual Adjustment Factor most recently published by HUD. Contract Rents may be adjusted upward or downward, as may be appropriate; however, in no case shall the adjusted rents be less than the Contract Rents on the effective date of the Contract.

(c) *Special Additional Adjustments.* Special additional adjustments may be granted, when approved by HUD, to reflect increases in the actual and necessary expenses of owning and maintaining the Contract units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs (i.e., assessments, and utilities not covered by regulated rates), but only if and to the extent that the Owner clearly demonstrates that such general increases have caused increases in the Owner's operating costs which are not adequately compensated for by automatic annual adjustments. The Owner shall submit to HUD financial statements which clearly support the increase.

(d) *Overall Limitation.* Notwithstanding any other provisions of this part, adjustments as provided in this section shall not result in material differences between the rents charged for assisted and comparable unassisted units, as determined by HUD.

§ 880.111 Types of Housing and Property Standards.

(a) Newly constructed single-family houses, mobile homes and multifamily structures may be utilized in this program. Congregate housing may be developed for elderly disabled, or handicapped Families and individuals. Single room occupant housing planned specifically as a relocation resource for eligible single persons may also be developed. High-rise elevator projects for Families with children may not be utilized unless HUD determines there is no practical alternative.

(b) Participation in this program requires compliance with (1) Minimum Property Standards, (2) in the case of mobile homes, the American National Standards Institute Standard No. A-119.1, or applicable State standards, in accordance with applicable HUD regulations as to certification and standards issued pursuant to Title I of the National Housing Act, 24 CFR 201.520-1, (3) in the case of congregate or single room occupant housing, the appropriate HUD guidelines and standards, (4) HUD requirements pursuant to section 209 of the HCD Act for projects for the elderly or handicapped, (5) HUD requirements pertaining to noise abatement and control, and (6) applicable State and local laws, codes, ordinances, and regulations.

§ 880.112 Site and Neighborhood Standards.

Proposed sites for new construction projects must be approved by HUD as meeting the following standards:

(a) The site shall be adequate in size, exposure and contour to accommodate the number and type of units proposed; and adequate utilities (water, sewer, gas and electricity) and streets shall be available to service the site.

(b) The site and neighborhood shall be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and HUD regulations issued pursuant thereto.

(c) The site shall not be located in:

(1) An area of minority concentration unless (i) sufficient, comparable opportunities exist for housing for minority families, in the income range to be served by the proposed project, outside areas of minority concentration, or (ii) the project is necessary to meet overriding housing needs which cannot otherwise feasibly be met in that housing market area. (An "overriding need" may not serve as the basis for determining that a site is acceptable if the only reason the need cannot otherwise feasibly be met is that discrimination on the basis of race, color, religion, creed, sex, or national origin renders sites outside areas of minority concentration unavailable.)

(2) A racially mixed area if the project will cause a significant increase in the proportion of minority to nonminority residents in the area.

(d) The site shall promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.

(e) The site shall be free from adverse environmental conditions, natural or manmade, such as instability, flooding, septic tank back-ups, sewage hazards,

or mudslides; harmful air pollution, smoke or dust; excessive noise, vibration, or vehicular traffic; rodent or vermin infestation; or fire hazards. The neighborhood must not be one which is seriously detrimental to family life or in which substandard dwellings or other undesirable elements predominate, unless there is actively in progress a concerted program to remedy the undesirable conditions.

(f) The site shall comply with any applicable conditions in the Local Housing Assistance Plan, approved by HUD.

(g) The housing shall be accessible to social, recreational, educational, commercial, and health facilities and services, and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unsubsidized, standard housing of similar market rents.

(h) Travel time and cost via public transportation or private automobile, from the neighborhood to places of employment providing a range of jobs for lower-income workers, shall not be excessive. (While it is important that elderly housing not be totally isolated from employment opportunities, this requirement need not be adhered to rigidly for such projects.)

(i) The project may not be built on a site which has occupants unless the relocation requirements referred to in § 880.113 are met.

(j) The project may not be built in an area that has been identified by HUD as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, unless the project is covered by flood insurance as required by the Flood Disaster Protection Act of 1973, and it meets any relevant HUD standards and local requirements.

§ 880.113 Relocation.

(a) In the evaluation or selection of Preliminary Proposals, consideration shall be given to whether there are site occupants who would have to be displaced, whether there is a feasible plan for relocation of site occupants, the degree of hardship which displacement might cause, and the availability of funding for relocation payments and assistance. Greater weight shall be given to proposals which do not require displacement, or, where displacement is required, which will involve the least amount of hardship.

(b) In the case of a PHA-Owner Project, no Agreement shall be executed for housing which is to be constructed on a site which has occupants unless the Agreement provides that, pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, the PHA undertakes liability for (1) the provision of relocation payments and assistance as prescribed in sections 202, 203, and 204 of the Act; (2) the provision of relocation assistance programs offering the services described in section 205 of the Act; and (3) assuring that within a reasonable period of time prior to displacement, Decent, Safe, and Sanitary replacement dwellings will be available to displaced persons. The Agreement shall provide that the PHA will provide full funding for the required relocation payments and assistance unless other commitments, satisfactory to HUD, have been made for the funding of such payments and assistance. (In the case of a Private-Owner Project or a Private Owner/PHA Project, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 is inapplicable.)

§ 880.114 Other Federal requirements.

(a) *Equal Opportunity requirements.* Participation in this program requires compliance with (1) Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Orders 11063 and 11246, and section 3 of the Housing and Urban Development Act of 1968; and (2) all rules, regulations, and and requirements issued pursuant thereto.

(b) *National Environmental Policy Act.* Participation in this program requires compliance with the National Environmental Policy Act and all rules, regulations, and requirements issued pursuant thereto.

(c) *Clean Air Act and Federal Water Pollution Control Act.* Participation in this program requires compliance with the Clean Air Act and the Federal Water Pollution Control Act and all rules, regulations, and requirements issued pursuant thereto.

(d) *Davis-Bacon Wage Rates.* Not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (49 Stat. 1011), shall be paid to all laborers and mechanics employed in the development of any new construction project with nine or more assisted units.

§ 880.115 Financing.

(a) *Types.* Any type of financing may be utilized, including, but not limited to, the types listed below.

(1) Conventional loans from commercial banks, savings banks, savings and loan associations, pension funds, insurance companies or other financial institutions.

(2) Mortgage insurance programs under the National Housing Act (see § 880.207). (With respect to any obligation secured by a mortgage insured under section 221(d)(3) of the National Housing Act and issued by a public agency as mortgagor in connection with the financing of a project assisted under section 8, the interest paid on such obligation shall be included in gross income for purposes of Chapter I of the Internal Revenue Code of 1954.)

(3) Section 202 of the Housing Act of 1959.

(4) Title V of the Housing Act of 1949.

(5) Financing by tax-exempt bonds or other obligations. Where the project is owned by a non-profit corporation which is an agency or instrumentality of a PHA, and the financing is provided by the non-profit corporation or the PHA, the project will be considered as a PHA-Owner Project.

(b) *Use of Contract as Security for Financing.* (1) An Owner may pledge, or offer as security for any loan or obligation, an Agreement or Contract entered into pursuant to this part: *Provided, however,* That such security is in connection with a project constructed pursuant to this part, and the terms of the financing or any refinancing have been approved by HUD. It is the Owner's responsibility to request such approval in sufficient time before he needs the financing to permit review of the method and terms of the financing and the instrument of pledge, offer or other assignment that HUD is requested to approve. Where the methods and terms of financing require, the Contract Rents may be reduced in accordance with § 880.108(b).

(2) Any pledge of the Agreement, Contract, or ACC, or payments thereunder, shall be limited to the amounts payable under the Contract or ACC in accordance with its terms.

(3) In the event of foreclosure, including foreclosure by HUD, and in the event of assignment or sale agreed to by HUD or made to HUD, housing assistance payments shall continue in accordance with the terms of the Contract.

§ 880.116 Security and utility deposits.

(a) An Owner may require Families to pay a security deposit in an amount equal to one month's Gross Family Contribution. If a Family vacates its unit, the Owner, subject to State and local laws, may utilize the deposit as reimbursement for any unpaid rent or other amount owed under the Lease. If the Family has provided a security deposit, and it is insufficient for such reimbursement, the Owner may claim reimbursement from HUD or the PHA, as appropriate, not to exceed an amount equal to the remainder of one month's Contract Rent. Any reimbursement under this section shall be applied first toward any unpaid rent. If a Family vacates the unit owing no rent or other amount under the Lease or if such amount is less than the amount of the security deposit, the Owner shall refund the full amount or the unused balance, as the case may be, to the Family.

(b) In those jurisdictions where interest is payable by the Owner on security deposits, the refunded amount shall include the amount of interest payable. All security deposit funds shall be deposited by the Owner in a segregated bank account, and the balance of this account, at all times, shall be equal to the total amount collected from tenants then in occupancy, plus any accrued interest. The Owner shall comply with all State and local laws regarding interest payments on security deposits.

(c) Families shall be expected to obtain the funds to pay security and utility deposits, if required, from their own resources and/or other private or public sources.

§ 880.117 Establishment of income limit schedules; 30 percent occupancy by very low-income families.

(a) HUD will establish schedules of Income limits for determining whether

families qualify as Lower-Income Families and Very Low-Income Families.

(b) In the initial renting of Contract units, the Owner shall lease at least 30 percent to Very Low-Income Families and shall thereafter exercise his best efforts to maintain at least 30 percent occupancy of Contract units by Very Low-Income Families.

§ 880.118 Establishment of amount of Housing Assistance Payments.

The amount of Housing Assistance Payment on Behalf of Eligible Family, to be determined in accordance with schedules and criteria established by HUD, will equal the difference between (a) no less than 15 percent nor more than 25 percent of the Family's Income and (b) the Gross Rent, taking into consideration the Income of the Family, the number of minor children in the household, and the extent of medical or other unusual expenses incurred by the Family, except that, in the case of a large Very Low-Income Family or a very large Lower-Income Family or a Family with exceptional medical or other unusual expenses, the amount of the housing assistance payment shall be the difference between 15 percent of the Family's Income and the Gross Rent. The term large Family means a Family which includes six or more minors (other than the head of the Family or spouse). The term very large Family means a Family which includes eight or more minors (other than the head of the Family or spouse).

§ 880.119 Responsibilities of the Owner.

(a) The Owner shall be responsible (subject to post-review or audit by HUD or the PHA, as the case may be) for management and maintenance of the project. These responsibilities shall include but not be limited to:

(1) Payment for utilities and services (unless paid directly by the Family), insurance and taxes;

(2) Performance of all ordinary and extraordinary maintenance;

(3) Performance of all management functions including the taking of applications, selection of Families including verification of Income and other pertinent requirements, and determination of eligibility and amount of Family contribution in accordance with HUD-established schedules and criteria;

(4) Collection of Family rents;

(5) Termination of tenancies, including evictions;

(6) Preparation and furnishing of information required under the Contract;

(7) Reexamination of Family Income, composition, and extent of exceptional medical or other unusual expenses, and redeterminations, as appropriate, of the amount of Family contribution and amount of housing assistance payment in accordance with HUD-established schedules and criteria;

(8) Redeterminations of amount of Family contribution and amount of housing assistance payment in accordance with HUD-established schedules and criteria as a result of an adjustment by the PHA or HUD, as appropriate, of any applicable Allowance for Utilities and Other Services; and

(9) Compliance with equal opportunity requirements.

(b) Subject to HUD approval, any private Owner may contract with any private or public entity to perform for a fee the services required by paragraph (a) of this section, provided that such contract shall not shift any of the Owner's responsibilities or obligations. However, no entity which is responsible for administration of the Contract (for example, a PHA in the case of a Private-Owner/PHA Project) may contract to perform management and maintenance of the project: *Provided, however,* That this prohibition shall not preclude management by the PHA in the event it taken possession as the result of foreclosure or assignment in lieu of foreclosure. (See, however, § 880.124(b) which permits conversion of a Private-Owner/PHA Project to a Private-Owner Project.)

§ 880.120 Responsibility for contract administration, and defaults (private-owner and PHA-owner projects).

(a) *Contract Administration.* HUD is responsible for administration of the Contract. HUD may contract with another entity for the performance of some or all of its Contract administration functions.

(b) *Defaults by Owner.* The Contract shall contain a provision to the effect (1) that if HUD determines that the Owner is in default under the Contract, HUD shall notify the Owner of the actions required to be taken to cure the default and of the remedies to be applied by HUD including abatement of housing assistance payments and recovery of overpayments, where appropriate; and (2) that if he fails to cure the default, HUD has the right to terminate the Contract or to take other corrective action.

§ 880.121 Responsibility for contract administration, and defaults (private-owner/PHA projects).

(a) *Contract Administration.* The PHA is primarily responsible for administration of the Contract, subject to review and audit by HUD.

(b) *Defaults by PHA and/or Owner.* (1) The ACC and the Contract shall contain a provision to the effect that in the event of failure of the PHA to comply with the Contract with the Owner, the Owner shall have the right, if he is not in default, to demand that HUD determine, after notice to the PHA giving it a reasonable opportunity to take corrective action, whether a substantial default exists, and if HUD determines that such a default exists, that HUD assume the PHA's rights and obligations under the Contract and carry out the obligations of the PHA to the Owner.

(2) The ACC shall contain a provision to the effect that if the PHA fails to comply with any of its obligations (including specifically failure to enforce its rights under the Contract, in the event of any default by the Owner, to achieve compliance to the satisfaction of HUD or to terminate the Contract in whole or in part, as directed by HUD), HUD may, after notice to the PHA giving it a reasonable opportunity to take corrective action, determine that there is a substantial default and require the PHA to assign to HUD all of the PHA's rights and interests under the Contract. In such case, HUD will continue to pay annual contributions in accordance with the terms of the ACC and the Contract.

(3) The Contract shall contain a provision to the effect (i) that if the PHA determines that the Owner is in default under the Contract, the PHA shall notify the Owner, with a copy to HUD, of the actions required to be taken to cure the default and of the remedies to be applied by the PHA including abatement of housing assistance payments and recovery of overpayments, where appropriate; and (ii) that if he fails to cure the default, the PHA has the right to terminate the Contract or to take other corrective action, in its discretion or as directed by HUD. If the PHA is the lender, the Contract shall also provide that HUD has an independent right to determine whether the Owner is in default and to take corrective action and apply appropriate remedies, except that HUD shall not have the right to terminate the Contract without proceeding in accordance with paragraph (b) (2) of this section.

§ 880.122 Rights of owner if PHA defaults under agreement (private-owner/PHA projects).

The ACC and the Agreement shall contain a provision to the effect that in the event of failure of the PHA to comply with the Agreement with the Owner, the Owner shall have the right, if he is not in default, to demand that HUD determine, after notice to the PHA giving it a reasonable opportunity to take corrective action, whether a substantial default exists, and if HUD determines that such a default exists, that HUD assume the PHA's rights and obligations under the Agreement, and carry out the obligations of the PHA under the Agreement, including the obligation to enter into the Contract.

§ 880.123 Separate project requirement.

(a) In the case of a Private-Owner Project or a PHA-Owner Project, each Agreement and Contract shall constitute a separate project.

(b) In the case of a Private-Owner/PHA Project, such project may not include more than one type of section 8 assistance, shall be processed with a separate ACC List and ACC Part I and shall be assigned a separate project number. All new construction units to be placed under a single Contract shall comprise a separate project. However, the field office director may designate as a single project the units to be covered by two or more such Contracts for new construction projects where:

(1) The units are placed under ACC on the same date; and

(2) Such consolidation is necessary in the interest of administrative efficiency.

§ 880.124 Conversions.

(a) *Conversion of Private-Owner Project to Private-Owner/PHA Project.* HUD may request the Owner of a Private-Owner Project and an appropriate PHA to agree, if they are willing, to a conversion of any such project to a Private-Owner/PHA Project if HUD determines that such conversion would promote efficient project administration.

(b) *Conversion of Private-Owner/PHA Project to Private-Owner Project.* The private Owner and the PHA, in the case of a Private-Owner/PHA Project, may request HUD to agree to a conversion of any such project to a Private-Owner Project. HUD shall agree to such conversion if it determines it to be in the best interest of the project.

§ 880.125 Projects financed with proceeds from sale of bonds or notes.

(a) *Applicability of this section.* The provisions of this section shall apply where the interim and permanent financing for a project is to be provided by a public agency or other entity including a PHA ("financing agency") from the proceeds of the sale of bonds or notes.

(b) *Submission of Financing Documents to HUD.* (1) Before HUD may approve a Final Proposal which is to be financed in a manner subject to this section, the financing agency shall submit to the appropriate HUD field office or offices copies of the documents relating to the method of financing of the project, such documents to include the bond resolution or indenture, loan agreement, regulatory agreement, note, and mortgage or deed of trust and other related documents, if any, including the "official statement" or "prospectus" if available at that time, or as soon as it is available. After prompt review, HUD shall notify the financing agency that the documents are acceptable or, if unacceptable, shall request clarification or changes. In the event a financing agency which has obtained HUD approval of its financing documents proposes substantive changes in the documents, whether by way of amendment, replacement or supplementation, such changes must be submitted to HUD for prior approval.

(2) The financing agency shall also submit a certification specifying (i) its projected rate (net interest cost) of the borrowing from which funds will be used for financing (interim and permanent) the project, (ii) the projected rate at which interim financing will be provided to the Owner for the project, (iii) the projected capital cost of the project and the projected rate and the term of the permanent financing to be provided to the Owner for the project, (iv) the projected monthly debt service for such permanent financing on which the Contract Rents are based, and (v) the spread, if any, between the projected rate of borrowing and the projected rate of lending to the Owner. The financing agency shall also certify (vi) that the spread, if any, between its actual rate of borrowing and the actual rate of lending to the Owner for the project will not be greater than the projected spread nor greater than the spread allowed for the borrowing as a whole under the Department of Treasury regulations regarding arbitrage if the borrowing is subject to those regulations, or the HUD regulations under section 11 (b) of the United States Housing Act of 1937 (24 CFR, 811.101) if the borrowing is by a PHA under that § 811.101, and (vii) that the terms of the financing, the amount of the obligations issued with respect to the project, and the use of the funds raised will be in compliance with applicable Department of Treasury regulations regarding arbitrage or HUD regulations in § 811.101. The term "spread" means the difference between the net interest cost on financing agency obligations issued in connection with a project and the effective rate of interest (i.e., including the servicing charge) payable by the Owner.

(3) The financing agency shall retain in its files, and make available for HUD inspection, the documentation relating to its financing of section 8 projects, including any certifications of compliance with the applicable Department of Treasury or HUD regulations.

(c) *Recoupment of Savings in Financing Cost.* (1) In the event that the interim financing is continued beyond one year from the effective date of the Contract and the interest cost of the interim financing for any period of three months, after such first year, is less than the anticipated debt service under the permanent financing on which the Contract Rents were based, an appropriate amount reflecting the savings in financing cost shall be credited by HUD to the Project Account pursuant to § 880.105 or § 880.106, as appropriate, and withheld from housing assistance payments to the Owner. If during the course of the same year there is any period of three months in which the financing cost is greater than the anticipated debt service under the permanent financing, an adjustment shall be made so that only the net amount of savings in financing cost for the year is credited by HUD to the Project Account and withheld from housing assistance payments to the Owner as aforesaid (no increased payments shall be made to the Owner on account of any net excess for the year of actual interim financing cost over the anticipated debt service under the permanent financing). Nothing in this paragraph (c) shall be construed as requiring a reduction in the Contract Rents or precluding adjustments of Contract Rents in accordance with § 880.110.

(2) The computation and recoupment under this paragraph (c) may be made on an annual or on a quarterly or other periodic basis, but in any event no later than as of the end of each fiscal year; *Provided, however,* That if recoupment is to be made less often than quarterly, the amounts of recoupment shall be computed on at least a quarterly basis and the funds deposited in a special account from which withdrawals may be made only with the authorization of HUD or other entity administering the Contract.

(d) *Adjustment to reflect actual cost of permanent financing.* After the project is permanently financed, the financing agency shall submit a certification as to the actual financing terms. If the actual debt service under the permanent financing is lower than the anticipated debt service on which the Contract Rents were based, the initial Contract Rents, or the Contract Rents currently in effect, shall be reduced commensurately, and the amount of the savings shall be credited to the Project Account. The maximum ACC or Contract commitment shall not be reduced. If the actual debt service is higher, the Contract Rents shall not be increased.

(e) *Use of Contract as security for financing.* (1) An Owner or financing agency may pledge, or offer as security for any loan or obligation, an Agreement or Contract entered into pursuant to this part, and a financing agency may pledge ACC payments as security for housing assistance payments pursuant to the Contract: *Provided, however,* That such security is in connection with a project constructed pursuant to this part, the terms of the financing or any refinancing have been approved by HUD in accordance with this section, and the financing agency has submitted a certification that the terms and conditions of the financing for the particular project are consistent with those specified in the documents which were approved by HUD. Any such pledge shall be limited to the amounts payable under the Contract or ACC in accordance with its terms.

(2) In the event of foreclosure, or assignment or sale to the financing agency in lieu of foreclosure, or in the event of assignment or sale agreed to by the financing agency and approved by HUD (which approval shall not be unreasonably delayed or withheld), housing assistance payments shall continue in accordance with the terms of the Contract.

Subpart B—Project Development and Operation

§ 880.201 Allocations of contract authority to field offices.

HUD will allocate to field offices contract authority for the Section 8 Housing Assistance Payments Program for metropolitan areas and for nonmetropolitan areas in conformance with section 213 (d) of the HCD Act.

§ 880.202 Determination of number and types of units to be assisted.

Each field office shall, after considering the contents of any Local Housing Assistance Plans and any other pertinent information which it has or which is brought to its attention, in relation to the factors set forth in section 213(d) of the HCD Act, determine the number and types of units to be advertised for new construction and for substantial rehabilitation, and to be made available for existing housing. The field office will also determine an appropriate schedule for advertising for Preliminary Proposals—New Construction.

§ 880.203 Invitations for preliminary proposals.

(a) *Publication.* The HUD field office shall initiate implementation of its pro-

gram with respect to new construction by publishing Invitations for Preliminary Proposals—New Construction in accordance with the schedule established by the field office. Such publications shall be at least once a week on the same day or days of each of two consecutive weeks in a newspaper(s) of general circulation serving the area(s) for which proposals are desired. As promptly as possible, HUD will also notify minority media, business concerns included in HUD's registery of Section 3 businesses for the applicable political jurisdictions, minority organizations involved in housing and community development, and fair housing groups. In addition, to the extent feasible, HUD may notify appropriate PHAs, the chief executive officer of the appropriate unit(s) of general local government, trade journals, and other non-minority media. Copies of each Invitation shall be available in the HUD field office.

(b) *Contents of invitation.* The Invitation shall state the geographic area or areas in which the housing is to be constructed; the number of units in each area; the deadline for receipt of Preliminary Proposals by HUD; such other basic information as the field office may wish to specify; and the fact that detailed information, guidelines, standards and procedures are contained in a Developer's Packet which may be obtained by interested parties from the field office. The Invitation shall also state that Preliminary Proposals may be submitted by private Owners or PHA Owners for direct contracting with HUD, or by PHAs on behalf of private Owners with whom the PHA proposes to contract pursuant to an ACC with HUD.

(c) *Deadline for receipt of Preliminary Proposals.* The deadline (date and time) for receipt of Preliminary Proposals by HUD shall allow a reasonable time but, in any event, no less than 35 calendar days after the date of the first publication in a newspaper of general circulation.

(d) *Preapproved Sites.* Notwithstanding the foregoing provisions of this section, in the case of a site that has been predetermined or preapproved by HUD for a project under this Part, such as an urban renewal site which has been specifically designated for such use—if the unit of general local government so requests—the Owner may be selected by the local governmental agency in accordance with the applicable procedures (e.g., the developer of an urban renewal site), unless he has already been so selected by the agency, or he may be selected by HUD after advertising for Preliminary Proposals solely for that site.

§ 880.204 Contents of Developer's Packet.

The Developer's Packet shall:

(a) Include a copy of the applicable regulations, required HUD forms, and HUD standards. Where the field office determines that mobile homes are appropriate or that there is an interest on the part of developers to utilize mobile homes, the Developer's Packet shall include the appropriate HUD standards and guidelines and shall indicate any modifications of the HUD requirements and procedures under this part, including those relating to the site and site improvements, the type or types of units, and the special Fair Market Rents published for the area involved.

(b) Include the following information for each geographic area specified in the Invitation.

(1) The number of units for elderly and nonelderly occupancy and the number to be specially designed for elderly (including handicapped) occupancy.

(2) The number of units by unit size (bedrooms per unit) and the fact that a proposal may be for any number of units up to that amount.

(3) The type of housing, if any, which is unacceptable (e.g., high-rise elevator structures for Families with children, mobile homes where HUD has determined that such housing is inappropriate).

(4) Special requirements, if any, as to location, density, and site planning; in the case of New Communities, identification of the proposed site, including location map, dimensions, unusual site features, if any, zoning, and the minimum price for the site.

(5) Any special requirements for housing for the elderly (including the handicapped) pursuant to section 209 of the HCD Act, and any special requirements for the handicapped pursuant to the standards established by HUD under Pub. L. 90-480.

(6) Any special requirements or restrictions that may be necessary for compliance with provisions of the Local Housing Assistance Plan, if any, and the name, address, and title of the official of the unit of general local government to whom inquiries may be made concerning such Plan.

(7) The specific type(s) of utility and method(s) of distribution (utility combination) required, and a statement that, if another combination is proposed, a comparative analysis of utility costs supporting the proposed combination must be included in the Proposal.

(8) The specific management and maintenance services required to be provided by the Owner. Such services shall include all services typically provided in the area for the type of housing contemplated.

(9) The Fair Market Rents for newly constructed rental housing applicable to the structure types and unit sizes requested.

(10) Initial term of the Contract, and number of renewal options, if any.

(c) Include statements as to:

(1) Equal opportunity requirements, which include the submission of an Affirmative Fair Housing Marketing Plan (if the proposal is for five or more units); an assurance of compliance with Title VI of the Civil Rights Act of 1964; an assurance of compliance with Executive Order 11063 and Title VIII of the Civil Rights Act of 1968, including regulations and guidelines pursuant thereto; and certifications required pursuant to Executive Order 11246.

(2) HUD regulations and other requirements implementing section 3 of the Housing and Urban Development Act of 1968, requiring that, to the greatest extent feasible, opportunities for training and employment be given to lower-income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

(3) HUD relocation requirements.

(4) HUD requirements implementing the National Environmental Policy Act.

(5) Governmental requirements implementing the Clean Air Act and the Federal Water Pollution Control Act.

(6) HUD requirements implementing the Flood Disaster Protection Act of 1973.

(7) The requirement, if a project will contain nine or more Contract units, that all laborers and mechanics employed in the development of the project shall be paid not less than the wages prevailing in the locality as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act.

(8) The prescribed HUD form showing the identity of the Owner, the developer, the builder, the architect, and the managing agent (if any); the qualifications and experience of each; and the names of officials and principal members, shareholders and investors, and other parties having substantial interest.

(9) The requirement that the Owner submit evidence of capability to provide the required management and maintenance services or, if the proposal is for 15 or more units, evidence of management capability and a proposed management plan and a certification by the Owner and the management agent, if any, in a format acceptable to HUD.

(10) The fact that if the Owner intends to pledge, or offer as security for any loan or obligation, an Agreement or Contract, he is responsible for submitting to HUD a request for such approval in sufficient time before he needs the financing to permit review of the method and terms of the financing and the instrument of pledge, offer or other assignment; and that if the request is made after approval of the Final Proposal, the Contract Rents may be reduced where the methods and terms of financing require. (See § 880.115.)

(11) Other requirements which the HUD field office determines to be necessary.

(12) Where copies of HUD Minimum Property Standards and any other applicable standards, guidelines and criteria may be obtained.

(13) The number of copies of the Preliminary Proposal to be submitted to HUD.

(14) The fact that an Owner may submit simultaneously with the submission of the Preliminary Proposal, or at any time prior to Notification of Selection or Nonselection, a Final Proposal or a Final Proposal and the architect's certification in accordance with § 880.211 (b).

(15) The fact that HUD may determine not to select or approve any or all Preliminary Proposals submitted.

§ 880.205 Contents of preliminary proposal.

Each Preliminary Proposal shall include or indicate the following:

(a) Identification of the proposed site, including a map showing the location of the site and the racial composition of the neighborhood, sketch of site plan, dimensions, unusual site features, if any, and zoning (however, only a sketch of the site plan is required for a New Communities project).

(b) A copy of the site option agreement(s), contract(s) of sale, or other document(s) which evidence(s) the proposer's effective control of the site(s) (however, only the proposed price is required for a New Communities project).

(c) A description of the proposed housing including number and type of structures, number of stories, structural system, exterior finish, heating-air conditioning system, number of units by size (number of bedrooms), living area and composition for each size of unit, and special amenities or features, if any; and sketches of the buildings and unit plans.

(d) The Contract Rent per unit, by size and structure type.

(e) The equipment to be included in the Contract Rent.

(f) The utilities and services to be included in the Contract Rent and those utilities and services not so included. For each utility and service not included in the Contract Rent, an estimate of the average monthly cost (for the first year of occupancy) to the occupants by unit size and structure type.

(g) A showing that the proposal meets any special requirements or restrictions necessary for compliance with the provisions of the Local Housing Assistance Plan, if any.

(h) Whether the proposed project will displace site occupants. If so, the proposal shall state the number of families, individuals, and business concerns to be displaced (identified by race or minority group status, and whether they are owners or renters), and shall show that there is a feasible plan for relocation and how necessary relocation payments, if any, will be funded.

(i) Equal Employment Opportunity Certification, using the prescribed form.

(j) The identity of the Owner, developer, builder (if known), and architect (if known); the qualifications and experience of each; and the names of officials and principal members, shareholders and investors, and other parties having substantial interest, and the prior participation of each in HUD programs, using the prescribed form.

(k) Whether the Owner intends to provide management services or to contract with a managing agent. In the latter case, provide the identity of the managing agent, if known, and the other information as specified in paragraph (j) of this section.

(l) The proposed method and terms of financing, if available, and whether the Owner intends to pledge or offer the Agreement and/or Contract as security for any loan or obligation (see § 880.115 (b)). If the Owner proposes to utilize FHA mortgage insurance, the prescribed FHA form should be completed and submitted with the Preliminary Proposal.

(m) Whether the Owner proposes to limit the number of assisted units to 20 percent of the dwelling units in the project.

§ 880.206 Submission of Preliminary Proposals.

(a) Preliminary Proposals shall be submitted to HUD on or before the published deadline date and time for opening, in the number of copies specified in the Developer's Packet. Proposal documents shall be sealed in an inner envelope marked "Sealed Proposal—Open on (date and time specified in the Invitation"). This sealed proposal shall be submitted in an outer envelope or package which shall show the name of the locality, be addressed to the HUD field office, and be clearly and distinctively marked "Section 8 Housing Assistance Payments Program—New Construction Preliminary Proposal."

(b) Submission of Preliminary Proposals shall be by hand delivery or certified mail. Any Preliminary Proposal received by HUD after the deadline date and time shall not be accepted but shall be returned unopened. No Preliminary Proposal shall be opened by HUD until the deadline.

§ 880.207 Proposals involving HUD-FHA mortgage insurance.

(a) *Advance Mortgage Insurance Processing.* This paragraph (a) applies to Owners who apply for HUD-FHA mortgage insurance prior to the submission of a Preliminary Proposal under this Part. Such an Owner may apply for a Site Appraisal and Market Analysis Letter (SAMA Letter), a Conditional Commitment, or a Firm Commitment for mortgage insurance by submitting an application on the prescribed form with supporting exhibits and the required fee. Such an application will have to meet all applicable mortgage insurance criteria and underwriting standards without modification and without reliance upon housing assistance payments under this Part, or, in the alternative, approval for mortgage insurance shall be conditioned upon subsequent approval of a Section 8 proposal for the same project. If a SAMA Letter, Conditional Commitment, or Firm Commitment, whichever is applicable, is issued, and if prior to expiration thereof the Owner submits a Preliminary Proposal under this part which is consistent with the proposal as approved for mortgage insurance, such proposal will nevertheless be subject to review and evaluation in accordance with the procedures under this part; however, if the Preliminary Proposal is selected in accordance with the procedures under this part, further processing will be coordinated in accordance with paragraph (b) of this section to the extent applicable, and the rents which may be approved for such a Preliminary Proposal will not be less than the previously approved rents which were used in processing the mortgage insurance application: *Provided,* That they are otherwise approvable in accordance with this part.

(b) *Concurrent Processing.* The provisions of this paragraph (b) apply where the Preliminary Proposal indicates an intention to finance a project with a HUD-FHA insured mortgage. Such a Preliminary Proposal will not be selected under this part unless it meets the market and site acceptability criteria of the applicable mortgage insurance program except as modified by this paragraph. The processing of such a proposal for mortgage insurance will be integrated with the Section 8 review and evaluation process. Selection by HUD of such a Preliminary Proposal for preparation of a Final Proposal will be made only where HUD has also determined that the proposal will qualify for mortgage insurance subject to a satisfactory demonstration by the Owner of his capability to complete the project, and subject to subsequent determinations of site value, the loan amount and credit approval.

(1) A Section 8/HUD-FHA mortgage insurance project will be required to meet the marketability test of the applicable mortgage insurance program; provided, however, that the number of units in the proposal for which housing assistance payments are to be made available will be considered as an addition to the effective demand for unassisted rental units. As in the case of any other market analysis for market rate unassisted mortgage insurance programs, the supply of suitable vacant existing units, units under construction, and units in process must be subtracted from the estimate of total effective demand. Consequently, Section 8/HUD-FHA insured units could be added to a market in which supply and demand are in equilibrium or in which there is an undersupply of rental units, but could not be added to a market in which there is an oversupply of rental units in the same competitive range of market rents as the proposed Section 8/HUD-FHA insured project.

(2) After selection of a Preliminary Proposal which involves HUD-FHA mortgage insurance the Owner will be required to submit, with the Final Proposal, an application for HUD-FHA Conditional or Firm Commitment with the required fee under the applicable mortgage insurance program. Such Final Proposals will not be approved under Section 8 unless they also qualify for issuance of a HUD-FHA Conditional or Firm Commitment under the applicable mortgage insurance program. The HUD notification of approval of the Final Proposal will be accompanied by a HUD-FHA Conditional or Firm Commitment for HUD-FHA mortgage insurance. The Owner's acceptance of HUD's notification of approval of the Final Proposal will constitute concurrent acceptance of the conditions and terms of the HUD-FHA Conditional or Firm Commitment for mortgage insurance. The Owner will be required to obtain a Firm Commit-

ment prior to the execution of the Agreement.

(3) The rents of those units scheduled for assisted occupancy, when projected for the purpose of determining a mortgage limitation based on the debt service criterion, shall not exceed the Contract Rents set forth in the approved Final Proposal.

(c) *Delayed Mortgage Insurance Processing.* Where an Owner does not indicate in his Preliminary Proposal that he intends to utilize HUD–FHA mortgage insurance and applies for HUD–FHA mortgage insurance after HUD approval of the Preliminary Proposal under this part, he risks (1) having his approved proposal rejected for HUD–FHA mortgage insurance and (2) having lower rents approved under the mortgage insurance program than the rents set forth in the approved proposal under this part.

§ 880.208 Screening and evaluation of preliminary proposals.

(a) *Initial Screening.* Promptly after the deadline date for receipt of Preliminary Proposals, HUD will screen all the proposals to determine which are complete and responsive and eligible for further processing. If the Proposal does not include, or is deficient with respect to, identification of the proposed site, description of the proposed housing, or the proposed Contract Rents, it shall be rejected. If the Proposal lacks, or is deficient with respect to, any of the other required elements, the HUD field office shall give the Owner the shortest reasonable time (generally not to exceed 10 days) to supply the omitted items or remedy the deficiency.

(b) *A–95 Clearance; Notice to Unit of General Local Government.* (1) Promptly after the deadline date for receipt of proposals (or after the appropriate later date for proposals completed pursuant to paragraph (a) of this section), the HUD field office will, for each complete and responsive Preliminary Proposal which is subject to A–95 clearance, send a copy of the proposal to the appropriate A–95 Clearinghouse for review, inviting a response within 34 days from the date of the letter of transmittal.

(2) Within 10 working days after the deadline date for receipt of proposals (or after the appropriate later date for proposals completed pursuant to paragraph (a) of this section), the HUD field office shall, for purposes of compliance with section 213 of the HCD Act, forward, under cover of a letter in the appropriate prescribed form, a copy of each complete and responsive Preliminary Proposal to the chief executive officer (or such designee as such officer may designate in writing to the HUD field office) of the unit of general-local government in which the proposed housing is to be located. The cover letter will invite a response within 30 days from the date the letter and the copy of the proposal are received.

(c) *Evaluation of Preliminary Proposals by HUD.* HUD may begin its evaluation promptly after the deadline date, but no selection or ranking may be completed until the response periods referred to in paragraph (b) of this section have ended. Each Preliminary Proposal will be evaluated by HUD on the basis of all pertinent factors under this part including, but not limited to, the best combination of rent, site, design and previous experience of the proposed Owner and on the basis of comments, if any, received during the response periods from the appropriate A–95 Clearinghouse and the unit of general local government.

(d) *Selection where approvable proposals do not exceed number of units advertised.* For each geographic area HUD will determine which Preliminary Proposals, in its judgment, can be developed into Final Proposals meeting the requirements of the Developer's Packet. If the units covered by approvable Preliminary Proposals could all be accommodated in the number of units (by unit size) specified in the Invitation, no ranking in accordance with paragraph (e) of this section is necessary. The field office shall determine whether the results of a tentative selection would result in an undue concentration of assisted persons in areas containing a high proportion of low income persons. If so, the field office shall make such revisions in the tentative selections as it may determine to be necessary.

(e) *Selection where approvable Proposals exceed number of units advertised.* If the units covered by acceptable Preliminary Proposals cannot all be accommodated by the number of units (by unit size) specified in the Invitation, HUD will proceed as follows:

(1) Proposals consisting of projects to be developed entirely or predominantly for the elderly shall be listed in rank order and a second rank listing shall be established for projects to be developed entirely or predominantly for the non-elderly.

(2) With respect to the listing of proposals for elderly housing, the HUD field office will identify for selection the highest ranking proposals in descending order which will most nearly provide the number of units of elderly housing called for in the Invitation.

(3) With respect to the listing of proposals for the non-elderly housing, the HUD field office will identify for selection the highest ranking proposals in descending order which collectively will most nearly provide the number and sizes of units of non-elderly housing called for in the Invitation: *Provided, however,* That if there is a Preliminary Proposal for construction of more than 50 units of non-elderly housing which indicates that assistance will be limited to 20 percent or less of the units to be constructed, this proposal shall be given priority over the lowest ranking proposal(s) identified for selection which is for more than 50 units and which is for generally the same number and sizes of units.

(4) The field office shall determine whether the combined results of the tentative selections from both listings would exceed the number and sizes of units called for in the Invitation or would result in an undue concentration of assisted persons in areas containing a high proportion of low income persons. If so, the field office shall make such revisions in the tentative selections as it may determine to be necessary.

(f) *Use of Residual Units.* For any residual number of units, HUD may publish another Invitation for Proposals, but this shall not delay the further processing of those Preliminary Proposals submitted and selected as a result of the prior Invitation.

(g) *Notification of Selection.* (1) With respect to those Preliminary Proposals which have been selected in accordance with this section, HUD will notify the Owners, on a prescribed form, and request them to submit within a reasonable time (to be specified in the notification) a Final Proposal in accordance with the requirements of the provisions of § 880.209. The notification shall specify:

(i) The Contract Rents that will be acceptable to HUD where these are lower than the Contract Rents proposed by the Owner, and the reason for the reduction;

(ii) The estimate of the amount of relocation payments, where applicable; and

(iii) Other special conditions or requirements, if any

(2) The notification will request the Owner to return a copy of the notification with an indication of his acceptance thereof by a specified date. If the Owner does not accept the notification by the date specified, HUD may rescind the notification and select another approvable proposal.

(3) If the Owner has already submitted a Final Proposal (see § 880.204(c)(14)), the notification will state that upon acceptance of the notification by the Owner, HUD will evaluate the Final Proposal in accordance with § 880.210.

(h) *Notification of Nonselection.* Owners whose Preliminary Proposals were not selected by HUD shall be sent a letter notifying them of such determination.

§ 880.209 Final proposals.

(a) *Contents of Final Proposal.* Each Final Proposal shall indicate or include the following:

(1) A copy of the site option agreement(s), contract(s) of sale, or other document(s) which evidence(s) the proposer's effective control of the site(s) (however, only the proposed price is required for a New Communities project).

(2) A description of the proposed housing together with preliminary drawings and plans, and the outline specifications on the prescribed form. Preliminary drawings and plans shall include: Site layout based on the topographical information available from existing records and the known subsurface soil conditions; landscape plans; unit plans, at the scale of ¼ inch per foot; and general floor plans, and elevation drawings for each typical building, at the scale of 1/8 inch per foot.

(3) The Contract Rent per unit, by size and structure type.

(4) The equipment to be included in the Contract Rent.

(5) The utilities and services to be included in the Contract Rent and those utilities and services not so included. For each utility and service not so included, an estimate of the average monthly cost (for the first year of occupancy) to the occupants by unit size and structure type.

(6) In the case of a PHA-Owner Project, a statement that the PHA undertakes liability for (i) the provision of relocation payments and assistance as prescribed in sections 202, 203, and 204 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; (ii) the provision of relocation assistance programs offering the services described in section 205 of the Act; (iii) assuring that within a reasonable period of time prior to displacement, Decent, Safe, and Sanitary replacement dwellings will be available to displaced persons; and (iv) full funding of the required relocation payments and assistance unless other commitments, satisfactory to HUD, have been made for the funding of such payments and assistance. In the latter case, the PHA shall specify such other commitments. (In the case of a Private-Owner Project or a Private-Owner/PHA Project, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 is inapplicable.)

(7) Submission of an Affirmative Fair Housing Marketing Plan (if the proposal is for five or more units), a signed assurance of compliance with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and certifications required pursuant to Executive Order 11246.

(8) Submissions as required by HUD regulations and other requirements pursuant to section 3 of the Housing and Urban Development Act of 1968.

(9) The identity of the Owner, developer, builder, architect, and managing agent (if any); the qualifications and experience of each; and the names of officials and principal members, shareholders and investors, and other parties having substantial interest, and the prior participation of each in HUD programs, using the prescribed form.

(10) Submission of evidence of management capability and a proposed management plan and a certification by the Owner and the management agent, if any, in a format acceptable to HUD; or, if the proposal is for less than 15 units, evidence of capability of providing the required management and maintenance services. If the Owner proposes to contract with another entity, including a PHA, for management and/or maintenance services for the project, he shall include a copy of the proposed contract(s).

(11) Submission of the form of Lease the Owner proposes to use, which shall be in accordance with § 880.219.

(12) The proposed method and terms of financing and whether the Owner intends to pledge or offer the Agreement and/or Contract as security for any loan or obligation (see § 880.115(b)). If the Owner intends to utilize FHA mortgage insurance, an application for a Conditional or Firm Commitment on the prescribed form shall be completed and submitted with the prescribed fee with the Final Proposal unless this was previously done.

(13) Evidence that the proposed construction is permissible under the applicable zoning, building, housing and other codes, ordinances or regulations; or a statement of the proposed action to make the construction permissible and that such action will be successfully completed prior to the architect's certification pursuant to § 880.211(b).

(14) The anticipated time required for completion of the project after the Agreement is signed (if the project is to be completed in stages, identification of the units comprising each stage and the estimated dates for commencement and completion of each stage).

(b) *Consistency with Preliminary Proposal.* The Final Proposal shall be consistent with the Preliminary Proposal. Any material deviations from the Preliminary Proposal in the Final Proposal will cause reconsideration by HUD of such Final Proposal and may result in its rejection.

§ 880.210 Evaluation of final proposals.

(a) *Evaluation of Final Proposals by HUD.* Each Final Proposal will be evaluated by HUD to determine that the provisions of this Part have been complied with and that such Final Proposal is consistent with the Preliminary Proposal.

(b) *Clarifications or Modifications.* HUD may request clarification of individual items, additional information, or modifications of the Final Proposal.

(c) *HUD Determination.* HUD shall notify the Owner (and the PHA, if applicable) that the Final Proposal is:

(1) Approved.

(2) Approvable only if specified deficiencies are corrected and that HUD will approve the Final Proposal if it receives within a specified time evidence of such necessary corrections.

(3) Not approved. If a Final Proposal is not approved or if the conditions for approval under paragraph (c)(2) of this section are not met, HUD shall so advise the Owner and may request the preparation of a Final Proposal(s) with respect to the highest ranking Preliminary Proposal(s) not previously selected, or may issue another Invitation for Preliminary Proposals.

(d) *Notification.* The appropriate A-95 Clearinghouses and the unit of general local government shall be notified by HUD of its final action.

§ 880.211 Owner's acceptance of notification and submission of architect's certification.

(a) *Owner's Acceptance.* Upon receipt by the Owner of the notification of approval of the Final Proposal, the Owner shall return to HUD a copy indicating his acceptance within the time prescribed in such notification (copy to the PHA, if applicable). If the Owner does not accept the notification by the date specified, HUD may rescind the notification and proceed in accordance with § 880.210(c)(3).

(b) *Architect's Certification.* (1) Before an Agreement may be entered into (or, where applicable, an ACC and an Agreement), the Owner shall submit to HUD the architect's certification on the prescribed form. Such certification shall be made by the architect responsible for the preparation of the working drawings and specifications.

(2) The architect's certification shall state that, to the best of the architect's knowledge, belief, and professional judgment, (i) the working drawings and specifications are consistent with the approved Final Proposal (including any modifications required by HUD in its review of the Final Proposal), and (ii) the proposed construction in accordance with these plans and specifications is permissible under the applicable zoning, building, housing, and other codes, ordinances or regulations, as modified by any waivers obtained from the appropriate officials. This certification shall also cover compliance with the appropriate Minimum Property Standards and other standards, guidelines and criteria applicable pursuant to § 880.111(b), except that in the case of mobile homes the architect shall furnish certification by the manufacturer that the mobile homes will comply with the American National Standards Institute Standard No. A-119.1, or applicable State standards, in accordance with applicable HUD regulations as to certification and standards issued pursuant to Title I of the National Housing Act, 24 CFR 201.520-1.

(3) One copy of the certified working drawings and specifications shall be submitted with the architect's certification to HUD; provided, however, that receipt and retention by HUD of these working drawings and specifications shall not denote or constitute HUD review or approval of such drawings or specifications.

(4) If the Owner fails to submit the certification by the date specified in the notification, HUD shall rescind the notification (and may proceed in accordance with § 880.210(c)(3)) unless it determines that a reasonable extension of time should be granted.

§ 880.212 Annual Contributions Contract and Agreement (Private-Owner/PHA Projects).

(a) *Preparation of ACC.* After receipt of the architect's certification with the working drawings and specifications, the HUD field office shall prepare the ACC, shown as Appendix III. The ACC shall be transmitted to the PHA for execution and returned to HUD. This transmittal shall advise the PHA that it must simultaneously submit for HUD approval its Initial Estimate of Required Annual Contributions (Preliminary Costs) and an Estimate of Total Required Annual Contributions (see § 880.213).

(b) *Preparation of Agreement.* The Agreement shall be prepared by the HUD field office at the time the ACC is prepared (see § 880.214), and shall conform to the prescribed form shown as Appendix IV to this part. The Agreement shall

include all required information and required attachments.

(c) *Execution of ACC and Agreement.* After receipt of the PHA-executed ACC, accompanied by the Estimates of Required Annual Contributions, HUD shall review the Estimates and, if approved, execute the ACC. HUD shall then transmit a fully executed copy of the ACC to the PHA, together with four copies of the unexecuted Agreement. After execution of the Agreement by the PHA and the Owner, all copies shall be returned by the PHA to HUD for approval. HUD shall return three copies to the PHA, retaining one copy for its records.

§ 880.213 Submission of estimates of required annual contributions (private-owner/PHA projects).

(a) *Initial Submission.* An allowance may be provided for preliminary costs incurred by the PHA prior to the beginning of the first fiscal year. When the ACC is executed by the PHA, it shall submit an Initial Estimate of Required Annual Contributions (Preliminary Costs) together with an Estimate of Total Required Annual Contributions on the prescribed forms. This submission includes estimates of costs of administration and non-expendable equipment up to the beginning of the first fiscal year.

(b) *First Fiscal Year Submission.* Not earlier than 150 and not later than 90 days prior to the estimated date of the beginning of the first fiscal year, the PHA shall submit an Estimate of Required Annual Contributions (Housing Assistance and Administration) covering the estimated amount required for the first fiscal year for housing assistance payments and for the fee for administration together with an Estimate of Total Required Annual Contributions.

(c) *Subsequent Fiscal Year Submissions.* Not earlier than 150 and not later than 90 days prior to the beginning of each subsequent fiscal year, the PHA shall submit an Estimate of Required Annual Contributions (Housing Assistance and Administration) and an Estimate of Total Required Annual Contributions, with supporting documentation, for any requested changes in the amount of housing assistance payments and the fee for administration.

(d) *Revisions of Estimates.* Any of the above Estimates may be revised to reflect changes in circumstances and available data.

(e) *HUD Approval.* All Estimates of Required Annual Contributions and any revisions thereto submitted by the PHA shall be subject to HUD approval.

§ 880.214 Preparation and execution of agreement (Private-Owner and PHA-Owner Projects).

After receipt of a copy of the accepted notification, the architect's certification and the working drawings and specifications, the HUD field office shall prepare the Agreement in the prescribed form shown as Appendix I to this part. The Agreement shall include all required information and required attachments. HUD shall transmit to the Owner three copies of the unexecuted Agreement. After the Owner executes all copies of the Agreement, he shall return them to HUD. HUD shall execute the Agreement, returning one copy to the Owner and retaining two copies for its records.

§ 880.215 Construction period.

(a) *Timely performance of work.* After execution of the Agreement, the Owner shall promptly proceed with construction as provided in the Agreement. In the event the work is not so commenced, diligently continued, and/or completed, HUD (or the PHA with HUD approval, as appropriate) shall have the right to rescind the Agreement, or take other appropriate action.

(b) *Delays.* Although extensions of time may be granted for the reasons specified in the Agreement, no increases in Contract Rents may be granted on that account.

(c) *Changes.* The Owner shall submit for HUD approval any changes from the approved Final Proposal which would materially reduce or alter his obligations or any changes which would alter the design or materially reduce the quality or amenities of the project. HUD may condition its approval of such changes on a reduction of Contract Rents. If such changes are made without prior HUD approval, HUD may determine that Contract Rents shall be reduced or that the Owner shall remedy the deficiency as a condition for acceptance of the project. Contract Rents may not be increased by reason of any changes or modifications except those required by changes in local codes or ordinances made subsequent to execution of the Agreement, and then only if HUD approval is obtained prior to incorporation of any such changes in the project.

(d) *Inspection of HUD-FHA Insured Projects.* For projects financed with HUD-FHA insured mortgages, required HUD inspection procedures shall be followed including compliance with equal opportunity requirements.

(e) *Equal Opportunity Review.* Equal opportunity review may be conducted with any scheduled HUD inspection or at any other time deemed advisable by HUD.

(f) *Commencement of Marketing.* The Owner shall commence and diligently continue marketing as soon as possible, but in any event no later than 90 days prior to the estimated completion date. The Owner shall notify HUD (or the PHA in the case of a Private-Owner/PHA Project) of the date of commencement of marketing. The Owner shall also comply with all reporting requirements under the Affirmative Fair Housing Marketing Regulations. Not later than 30 days prior to the estimated completion date and periodically thereafter, the Owner shall notify HUD (or the PHA in the case of a Private-Owner/PHA Project) of any units which he anticipated will be vacant on the effective date of the Contract. At the time the Contract is executed (see § 880.217), the Owner will be required to submit a list of the dwelling units leased as of the effective date of the Contract and a list of the units not so leased, if any. The Owner will be entitled to housing assistance payments for any unleased units, pursuant to Sec. 880.107 (b) only if he has fully complied with the requirements of that section and of this paragraph.

§ 880.216 Project completion.

(a) *Notification of Completion.* The Owner shall notify HUD (with a copy to the PHA in the case of a Private-Owner/PHA Project) when the work is completed and shall submit to HUD the evidence of completion described in paragraph (b) of this section.

(b) *Evidence of Completion.* Completion of the project shall be evidenced by furnishing HUD with all of the following:

(1) A set of as-built drawings.

(2) A certificate of occupancy and/or other official approvals necessary for occupancy.

(3) A certification by the Owner, which will be supported by the Owner's warranty in the Contract, that:

(i) The project has been completed in accordance with the requirements of the Agreement;

(ii) The project is in good and tenantable condition;

(iii) There are no defects or deficiencies in the project except for ordinary punchlist items, or incomplete work awaiting seasonal opportunity such as landscaping and heating system test (such excepted items to be specified);

(iv) There has been no change in the evidence of management capability or in the proposed management program (if one was required) specified in his Final Proposal other than changes approved in writing by HUD in accordance with the Agreement; and

(v) He has complied with the provisions of the Agreement relating to the payment of not less than prevailing wage rates and that to the best of his knowledge and belief there are no claims of underpayment in alleged violation of said provisions of the Agreement. In the event there are any such pending claims to the knowledge of the Owner, HUD, or the PHA (if applicable), the Owner shall be required to place a sufficient amount in escrow, as determined by HUD, to assure such payments.

(4) A certification by the registered architect responsible for inspection of construction that such inspection was performed by him or under his supervision with the frequency and thoroughness required by the generally accepted standards of professional care and judgment, and that to the best of his knowledge, belief, and professional judgment:

(i) The project has been completed in conformance with the certified working drawings and specifications for the project or approved changes thereto (such changes to be listed);

(ii) The project is in good and tenantable condition;

(iii) There are no defects or deficiencies in the project except for ordinary punchlist items, or incomplete work awaiting seasonal opportunity such as landscaping and heating system test (such excepted items to be specified); and

(iv) The project has been constructed in accordance with applicable zoning, building, housing, and other codes, ordinances or regulations, as modified by any waivers obtained from the appropriate officials.

(c) *Review and Inspection.* (1) Within ten working days of the receipt of the evidence of completion, HUD shall review the evidence of completion for compliance with paragraph (b) of this section.

(2) Within the same time period, a HUD representative (accompanied by a PHA representative, if applicable) shall inspect the project in a manner sufficient to enable the inspector to report that he has inspected the observable elements and features of the project in accordance with professional standards of care and judgment and that, on the basis of the inspection, the project has been completed in accordance with the Agreement and that there are no observable conditions inconsistent with the evidence of completion, including the certifications of the Owner and the design or inspecting architects. If the inspection discloses defects or deficiencies, the inspector shall report these with sufficient detail and information for purposes of paragraphs (e) (1) and (2) of this section.

(d) *Acceptance.* If HUD determines from the review and inspection that the project has been completed in accordance with the Agreement, the project shall be accepted.

(e) *Acceptance where defects or deficiencies reported.* If the project is not acceptable under paragraph (d) of this section, the following shall apply:

(1) If the only defects or deficiencies are punchlist items or incomplete items awaiting seasonal opportunity, the project may be accepted and the Contract executed. If the Owner fails to complete the items within a reasonable time to the satisfaction of HUD (and the PHA, if applicable), HUD may, upon 30 days notice to the Owner (and the PHA, if applicable), terminate the Contract and/or exercise its other rights thereunder or, if the Contract is with a PHA, cancel its approval of the Contract and require its termination and/or exercise its other rights under the Contract and the ACC.

(2) If the defects or deficiencies are other than punchlist items or incomplete work awaiting seasonal opportunity, HUD shall determine whether and to what extent the defects or deficiencies can be corrected, what corrections are essential to permit HUD to accept the project, whether and to what extent a reduction of Contract Rents will be required as a condition to acceptance of the project, and the extension of time required for the remaining work to be done. The Owner (and the PHA, if applicable) shall be notified of HUD's determinations and, if he agrees to comply with the conditions, an agreement shall be entered into pursuant to which the defects or deficiencies will be corrected and the project then accepted. If the Owner is unwilling to enter into such agreement or if he fails to perform the agreement, the project shall not be accepted.

(f) *Notification of Nonacceptance.* If HUD determines that, based on the review of the evidence of completion and inspection, the project cannot be accepted, the Owner shall be promptly notified of this decision and the reasons.

(g) *Arbitration.* In the event the Owner disputes HUD determinations, he may submit the controversy to third-party arbitration at his expense, provided that the arbitration is advisory only.

(h) *Completion in Stages.* If the project is to be completed in stages, the procedures of this section shall apply to each stage.

§ 880.217 Execution of Housing Assistance Payments Contract.

(a) *Time of Execution.* Upon acceptance of the project by the Government pursuant to § 880.216, the Contract shall be executed first by the Owner and then by HUD, or, in the case of a Private-Owner/PHA Project, executed by the Owner and the PHA and then approved by HUD.

(b) *Unleased Units.* At the time of execution of the Contract, HUD (or the PHA, as appropriate) shall examine the lists of dwelling units leased and not leased, referred to in § 880.215(f), and shall determine whether or not the Owner has met his obligations under that section with respect to any unleased units. HUD (or the PHA, as appropriate) shall state in writing its determination with respect to the unleased units and for which of those units it will make housing assistance payments. The Owner shall indicate in writing his concurrence with this determination or his disagreement, reserving his rights to claim housing assistance payments for the unleased units pursuant to the Contract, without prejudice by reason of his signing the Contract. Copies of all documents referred to this paragraph shall be furnished to HUD in the case of a Private-Owner/PHA Project.

§ 880.218 Marketing.

(a) *Compliance with Equal Opportunity requirements.* Marketing of units and selection of Families by the Owner shall be in accordance with the Owner's HUD-approved Affirmative Fair Housing Marketing Plan, if required, and with all regulations relating to fair housing advertising including use of the equal opportunity logotype, statement, and slogan in all advertising. Projects shall be managed and operated without regard to race, color, creed, religion, sex, or national origin.

(b) *Eligibility, selection and admission of Families.* (1) The Owner shall be responsible for determination of eligibility of applicants, selection of families from among those determined to be eligible, and computation of the amount of housing assistance payments on behalf of each selected Family, in accordance with schedules and criteria established by HUD.

(2) For every family that applies for admission, the Owner and the applicant shall complete and sign the form of application prescribed by HUD, except that if there are no vacant units and the Owner's waiting list is such that there would be an unreasonable length of time before the applicant could be admitted, the Owner may advise the applicant that the Owner is not accepting applications for that reason. The Owner shall retain copies of all completed applications together with any related correspondence for three years. For each Family selected for admission, the Owner shall submit one copy of the completed and signed application to the HUD field office (in the case of Private-Owner/PHA Projects, the Owner simultaneously shall send a copy of the form to the PHA). Housing assistance payments will not be made on behalf of an admitted Family until after this copy has been received by the HUD field office (or, in the case of Private-Owner/PHA Projects, until the copy has been received by the PHA with a certification by the Owner that he has sent a copy to HUD).

(3) If the Owner determines that the applicant is eligible on the basis of Income and family composition and is otherwise acceptable but the Owner does not have a suitable unit to offer, the Owner shall place such Family on his waiting list and so advise the Family.

(4) If the Owner determines that the applicant is eligible on the basis of Income and family composition and is otherwise acceptable and if the Owner has a suitable unit, the Owner and the Family shall enter into a Lease. Such Lease shall be on the form of Lease included in the Owner's approved Final Proposal and shall otherwise be in conformity with the provisions of this Part.

(5) Records on applicant families and approved Families shall be maintained by the Owner so as to provide HUD with racial, ethnic and gender data and shall be retained by the Owner for three years.

(6) In the case of a PHA-Owner project, (i) if the PHA places a Family on its waiting list, it shall notify the Family of the approximate date of availability of a suitable unit insofar as such date can be reasonably determined, and (ii) if the PHA determines that an applicant is ineligible on the basis of income or family composition, or that the PHA is not selecting the applicant for other reasons, the PHA shall promptly send the applicant a letter notifying him of the determination and the reasons and that the applicant has the right within a reasonable time (specified in the letter) to request an informal hearing. If, after conducting such an informal hearing, the PHA determines that the applicant shall not be admitted, the PHA shall so notify the applicant in writing and such notice shall inform the applicant that he has the right to request a review by HUD of the PHA's determination. The procedures of this subparagraph do not preclude the applicant from exercising his other rights if he believes he is being discriminated against on the basis of race, color, creed, religion, sex, or na-

tional origin. The PHA shall retain for three years a copy of the application, the letter, the applicant's response if any, the record of any informal hearing, and a statement of final disposition.

§ 880.219 Lease requirements.

The Lease shall contain all required provisions specified in paragraph (b) of this section and none of the prohibited provisions listed in paragraph (c) of this section and shall otherwise conform to the form of Lease included with the Owner's approved Final Proposal.

(a) *Term of Lease.* The term of the Lease shall be for not less than one year. The Lease may (or, in the case of a Lease for a term of more than one year, shall) contain a provision permitting termination upon 30 days advance written notice by either party.

(b) *Required Provisions.* The Lease between the Owner (Lessor) and the Family (Lessee) shall contain the following provisions:

ADDENDUM TO LEASE

The following additional Lease provisions are incorporate in full in the Lease between ---------- (Lessor) and ---------- (Lessee) for the following dwelling unit: ----------. In case of any conflict between these and any other provisions of the Lease, these provisions shall prevail.

a. The total rent shall be $---------- per month.

b. Of the total rent, $---------- shall be payable by or at the direction of the Department of Housing and Urban Development ("HUD") as housing assistance payments on behalf of the Lessee and $---------- shall be payable by the Lessee. These amounts shall be subject to change by reason of changes in the Lessee's family income, family composition, or extent of exceptional medical or other unusual expenses, in accordance with HUD-established schedules and criteria; or by reason of adjustment by HUD, or the PHA, if appropriate, of any applicable Allowance for Utilities and Other Services. Any such change shall be effective as of the date stated in a notification to the Lessee.

c. The Lessor shall not discriminate against the Lessee in the provision of services, or in any other manner, on the grounds of race, color, creed, religion, sex, or national origin.

d. The Lessor shall provide the following services and maintenance: [Here insert the complete list as contained in the approved Final Proposal.]

Lessor ----------
By ----------
Date ----------
Lessee ----------
Date ----------

(c) *Prohibited Provisions.* Lease clauses which fall within the classifications listed below shall not be included in any Lease.

(1) *Confession of Judgment.* Prior consent by tenant to any lawsuit the landlord may bring against him in connection with the Lease and to a judgment in favor of the landlord.

(2) *Distraint for Rent or Other Charges.* Authorization to the landlord to take property of the tenant and hold it as a pledge until the tenant performs any obligation which the landlord has determined the tenant has failed to perform.

(3) *Exculpatory Clause.* Agreement by tenant not to hold the landlord or landlord's agents liable for any acts or omissions whether intentional or negligent on the part of the landlord or the landlord's authorized representative or agents.

(4) *Waiver of Legal Notice by Tenant Prior to Actions for Eviction or Money Judgments.* Agreement by tenant that the landlord may institute suit without any notice to the tenant that the suit has been filed.

(5) *Waiver of Legal Proceedings.* Authorization to the landlord to evict the tenant or hold or sell the tenant's possessions whenever the landlord determines that a breach or default has occurred, without notice to the tenant or any determination by a court of the rights and liabilities of the parties.

(6) *Waiver of Jury Trial.* Authorization to the landlord's lawyer to appear in court for the tenant and to waive the tenant's right to a trial by jury.

(7) *Waiver of Right to Appeal Judicial Error in Legal Proceedings.* Authorization to the landlord's lawyer to waive the tenant's right to appeal on the ground of judicial error in any suit or the tenant's right to file a suit in equity to prevent the execution of a judgment.

(8) *Tenant Chargeable with Costs of Legal Actions Regardless of Outcome.* Agreement by the tenant to pay attorney's fees or other legal costs whenever the landlord decides to take action against the tenant even though the court finds in favor of the tenant. (Omission of such clause does not mean that the tenant as a party to a lawsuit may not be obligated to pay attorney's fees or other costs if he loses the suit.)

§ 880.220 Termination of tenancy.

The Owner shall be responsible for termination of tenancies, including evictions. However, conditions for payment of housing assistance payments for any resulting vacancies shall be as set forth in § 880.107(c)(1).

§ 880.221 Maintenance, operation and inspections.

(a) *Maintenance and operation.* The Owner shall maintain and operate the project so as to provide Decent, Safe, and Sanitary housing and he shall provide all the services, maintenance and utilities which he agrees to provide under the Contract, subject to abatement of housing assistance payments or other applicable remedies if he fails to meet these obligations.

(b) *Inspection prior to occupancy.* Prior to occupancy of any unit by a Family, the Owner and the Family shall inspect the unit and both shall certify, on forms prescribed by HUD, that they have inspected the unit and have determined it to be Decent, Safe, and Sanitary in accordance with the criteria provided in the prescribed forms. Copies of these reports shall be kept on file by the Owner for at least three years.

(c) *Periodic inspections.* HUD (or the PHA, as appropriate) will inspect or cause to be inspected each Contract unit and related facilities at least annually and at such other times (including prior to initial occupancy and rerenting of any unit) as HUD (or the PHA) may determine to be necessary to assure that the Owner is meeting his obligation to maintain the units in Decent, Safe, and Sanitary condition and to provide the agreed upon utilities and other services. HUD (or the PHA) will take into account complaints by occupants and any other information coming to its attention in scheduling inspections and shall notify the Owner and the Family of its determination.

(d) *Units not decent, safe, and sanitary.* If HUD (or the PHA, as appropriate) notifies the Owner that he has failed to maintain a dwelling unit in Decent, Safe, and Sanitary condition and the Owner fails to take corrective action within the time prescribed in the notice, HUD (or the PHA) may exercise any of its rights or remedies under the Contract, including abatement of housing assistance payments, even if the Family continues to occupy the unit. If, however, the Family wishes to be rehoused in another dwelling unit with section 8 assistance and HUD (or the PHA) does not have other section 8 funds for such purposes, HUD (or the PHA) may use the abated housing assistance payments for the purpose of rehousing the Family in another dwelling unit. Where this is done, the Owner shall be notified that he will be entitled to resumption of housing assistance payments for the vacated dwelling unit if:

(1) The unit is restored to Decent, Safe, and Sanitary condition;

(2) The Family is willing to and does move back to the restored dwelling unit; and

(3) A deduction is made for the expenses incurred by the Family for both moves.

§ 880.222 Reexamination of Family Income, composition, and extent of exceptional medical or other unusual expenses.

Reexamination of Family Income, composition, and the extent of medical or other unusual expenses incurred by the Family shall be made by the Owner at least annually (except that such reviews may be made at intervals no longer than two years in the case of elderly Families), and appropriate redeterminations shall be made by the Owner of the amount of the Gross Family Contribution and the amount of the housing assistance payment, all in accordance with schedules and criteria established by HUD.

§ 880.223 Overcrowded and underoccupied units.

If HUD or the PHA, as the case may be, determines that a Contract unit assisted under this Part is not Decent, Safe, and Sanitary by reason of increase in Family size, or that a Contract unit is larger than appropriate for the size of the Family in occupancy, housing assistance payments with respect to such unit will not be abated, unless the Owner fails to offer the Family a suitable unit as soon as one becomes vacant and ready for

occupancy. In the case of an overcrowded unit, if the Owner does not have any suitable units or if no vacancy of a suitable unit occurs within a reasonable time, HUD (or the PHA) will assist the Family in finding a suitable dwelling unit and require the Family to move to such a unit as soon as possible. The Owner may receive housing assistance payments for the vacated unit if he complies with the requirements of § 880.107(c)(1).

§ 880.224 Adjustment of allowance for utilities and other services.

HUD or the PHA, as the case may be, shall determine, as part of its annual inspection and at such other times as it deems appropriate, whether an adjustment is required in the Allowance for Utilities and Other Services applicable to the dwelling units in the project, on grounds of changes in utility rates or other change of general applicability to all units in the project. If HUD (or the PHA) determines that an adjustment should be made, HUD (or the PHA) shall prescribe the amount of the adjustment and direct the Owner to make promptly a corresponding adjustment in the amount of rent to be paid by the affected Families and the amount of housing assistance payment.

§ 880.225 Continued family participation.

A Family must continue to occupy its approved unit to remain eligible for participation in the Housing Assistance Payments Program except that if the Family (a) wishes to vacate its unit at the end of the Lease term (or prior thereto but in accordance with the provisions of the Lease), or (b) is required to move for reasons other than violation of the Lease on the part of the Family, and if the Family wishes to receive the benefit of housing assistance payments in another approvable unit, the Family should give reasonable notice of the circumstances to HUD or to the PHA, as appropriate, so that HUD or the PHA may have the opportunity to consider the Family's request.

§ 880.226 Inapplicability of low-rent public housing model lease and grievance procedures.

Model lease and grievance procedures established by HUD for PHA-owned low-rent public housing are applicable only to PHA-Owner Projects under the Section 8 Housing Assistance Payments Program.

§ 880.227 Reduction of number of contract units for failure to lease to eligible families.

(a) If at any time, beginning six months after the effective date of the Contract, the Owner fails for a continuous period of six months to have at least 80 percent of the Contract units leased or available for leasing by Eligible Families, HUD (or the PHA at the direction of HUD, as appropriate) may on 30 days notice reduce the number of Contract units to not less than the number of units under lease or available for leasing by Eligible Families, plus 10 percent of such number if the number is 10 or more, rounded to the next highest number.

(b) At the end of the initial term of the Contract and of each renewal term, HUD (or the PHA at the direction of HUD, as appropriate) may, by notice to the Owner, reduce the number of Contract units to not less than (1) the number of units under lease or available for leasing by Eligible Families at that time, or (2) the average number of units so leased or available for leasing during the last year, whichever is the greatest number, plus 10 percent of such number if the number is 10 or more, rounded to the next highest number.

(c) HUD will agree to an amendment of the ACC or the Contract, as appropriate, to provide for subsequent restoration of any reduction made pursuant to paragraph (a) or (b) of this section if HUD determines that the restoration is justified as a result of changes in demand and in the light of the Owner's record of compliance with his obligations under the Contract and if annual contributions contract authority is available; and HUD will take such steps authorized by section 8(c)(6) of the Act as may be necessary to carry out this assurance (see §§ 880.105 and 880.106).

§ 880.228 HUD review of contract compliance.

HUD will review project operation at such intervals as it deems necessary to ensure that the Owner is in full compliance with the terms and conditions of the Contract. Equal Opportunity review may be conducted with the scheduled HUD review or at any time deemed appropriate by HUD.

§ 880.229 PHA reporting requirements. [Reserved]

APPENDIX I—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM AGREEMENT TO ENTER INTO HOUSING ASSISTANCE PAYMENTS CONTRACT NEW CONSTRUCTION PRIVATE-OWNER OR PHA-OWNER PROJECT

PART I

This Agreement to Enter into Housing Assistance Payments Contract ("Agreement") is made and entered into by and between the United States of America acting through the Department of Housing and Urban Development ("Government") and _____ ("Owner").

Whereas, the Owner proposes to complete a housing project consisting of improvements and land, as described in the approved Final Proposal; and

Whereas, the Owner and the Government propose to enter into a Housing Assistance Payments Contract ("Contract") upon the completion of said project for the purpose of making housing assistance payments to enable eligible Lower-Income Families ("Families") to occupy units in said project; and

Whereas, the Owner is also the developer, or, if the developer is other than the Owner, the developer's name is _____.

Now, therefore, the parties hereto agree as follows:

1.1 *Significant dates; contents of Agreement.*

a. *Time for Completion of Project.* The time for completion of the project (see Section 1.2a) is _____ calendar days after the effective date of this Agreement.

b. *Date for Commencement of Work.* The date for commencement of work (see Section 1.2b) is _____, 19__.

c. *Contents of Agreement.* This Agreement consists of Part I, Part II, and the following exhibits:

Exhibit A: The approved Final Proposal, including, among other things, the architect's certification, the Affirmative Fair Housing Marketing Plan (if required), evidence of management capability, and management program (if required);

Exhibit B: The Housing Assistance Payments Contract ("Contract") to be executed upon acceptable completion of the project;

Exhibit C: The schedule of completion in stages, if applicable;

Exhibit D: The schedule of minimum rates of wages, if applicable; and

Additional exhibits: (Specify additional exhibits, if any. If none, insert "None".)

This Agreement, including said exhibits, comprises the entire agreement between the parties hereto, and neither party is bound by any representations or agreements of any kind except as contained herein. Nothing contained in this Agreement shall create or affect any relationship between the Government and the lender or any contractors or subcontractors employed by the Owner in the completion of the project.

1.2 *Schedule of Completion.*

a. *Time for Completion.* The project shall be completed in accordance with Section 1.4 no later than the end of the period stated in Section 1.1a, or in stages as provided for in Exhibit C which identifies the units comprising each stage and the date of commencement and time for completion of each stage. Where completion in stages is provided for, all references to project completion shall be deemed to refer to project completion and/or completion of any stage, as appropriate.

b. *Timely Performance of Work.* The Owner agrees that no later than the date stated in Section 1.1b the work will be commenced and diligently continued. In the event the work is not commenced, diligently continued, and/or completed as aforesaid, the Government reserves the right to rescind this Agreement or take other appropriate action. The Owner shall report to the Government the date work was commenced and shall thereafter furnish the Government with periodic progress reports (quarterly unless more frequent reporting is required by the Government).

c. *Delays.* In the event there is delay in the completion due to strikes, lockouts, labor union disputes, fire, unusual delays in transportation, unavoidable casualties, weather, acts of God, or any other causes beyond the Owner's control, or by delay authorized by the Government, the time for completion shall be extended to the extent that completion is delayed due to one or more of these causes. No increase in the rents set forth in Exhibit B ("Contract Rents") may be granted on account of any such delays.

1.3 *Construction Period.*

a. *Changes.* The Owner shall submit for Government approval any changes from Exhibit A which would materially reduce or alter his obligations or any changes which would alter the design or materially reduce the quality or amenities of the project. The Government may condition its approval of such changes on a reduction of Contract Rents. If such changes are made without prior Government approval, the Government may determine that Contract Rents shall be reduced or that the Owner shall remedy the defects or deficiencies as a condition for acceptance of the project. Contract Rents may not be increased by reason of any changes or modifications except those required by

changes in local codes or ordinances made subsequent to execution of the Agreement, and then only if Government approval is obtained prior to incorporation of any such changes in the project.

b. *Commencement of Marketing.* The Owner shall commence and diligently continue marketing as soon as possible, but in any event no later than 90 days prior to the estimated completion date. The Owner shall notify the Government of the date of commencement of marketing. The Owner shall also comply with all reporting requirements under the Affirmative Fair Housing Marketing Regulations. Not later than 30 days prior to the estimated completion date and periodically thereafter, the Owner shall notify the Government of any units which he anticipates will be vacant on the effective date of the Contract. At the time the Contract is executed, the Owner shall submit a list of the dwelling units leased as of the effective date of the Contract and a list of the units not so leased, if any. The Owner will be entitled to housing assistance payments for any unleased units pursuant to Section 1.6b of the Contract only if he has fully complied with the requirements of this paragraph and the provisions of that section.

1.4 *Project Completion.*

a. *Conformance to Final Proposal.* The completed project shall be in accordance with Exhibit A. The Owner shall be solely responsible for completion of the project.

b. *Notification of Completion.* The Owner shall notify the Government when the work is completed and shall submit to the Government the evidence of completion described in paragraph c of this Section.

c. *Evidence of Completion.* Completion of the project shall be evidenced by furnishing the Government with all of the following:

(1) A set of as-built drawings.

(2) A certificate of occupancy and/or other official approvals necessary for occupancy.

(3) A certification by the Owner, which will be supported by the Owner's warranty in the Contract, that:

(i) The project has been completed in accordance with the requirements of this Agreement;

(ii) The project is in good and tenantable condition;

(iii) There are no defects or deficiencies in the project except for ordinary punchlist items, or incomplete work awaiting seasonal opportunity such as landscaping and heating system test (such excepted items to be specified);

(iv) There has been no change in the evidence of management capability or in the proposed management program (if one was required) specified in his Final Proposal other than changes approved in writing by the Government in accordance with Section 1.3a; and

(v)[1] He has complied with the provisions of Sections 2.6 through 2.11 of this Agreement, and that to the best of his knowledge and belief there are no claims of underpayment to laborers or mechanics in alleged violation of said provisions of the Agreement. In the event there are any such pending claims to the knowledge of the Owner or the Government, the Owner shall be required to place a sufficient amount in escrow, as determined by the Government, to assure such payments.

(4) A certification by the registered architect responsible for inspection of construction that such inspection was performed by him or under his supervision with the frequency and thoroughness required by the generally accepted standards of professional care and judgment, and that to the best of his knowledge, belief, and professional judgment:

(i) The project has been completed in conformance with the certified working drawings and specifications for the project or approved changes thereto (such changes to be listed);

(ii) The project is in good and tenantable condition;

(iii) There are no defects or deficiencies in the project except for ordinary punchlist items, or incomplete work awaiting seasonal opportunity such as landscaping and heating system test (such excepted items to be specified); and

(iv) The project has been constructed in accordance with applicable zoning, building, housing, and other codes, ordinances or regulations, as modified by any waivers obtained from the appropriate officials.

d. *Review and Inspection.* (1) Within ten working days of the receipt of the evidence of completion, the Government shall review the evidence of completion for compliance with paragraph c of this Section.

(2) Within the same time period, a Government representative shall inspect the project in a manner sufficient to enable the inspector to report that he has inspected the observable elements and features of the project in accordance with professional standards of care and judgment and that, on the basis of the inspection, the project has been completed in accordance with the Agreement and that there are no observable conditions inconsistent with the evidence of completion, including the certification of the Owner and the design or inspecting architects. If the inspection discloses defects or deficiencies, the inspector shall report these with sufficient detail and information for purposes of paragraphs f(1) and (2) of this Section.

e. *Acceptance.* If the Government determines from the review and inspection that the project had been completed in accordance with the Agreement, the project shall be accepted.

f. *Acceptable Where Defects or Deficiencies Reported.* If the project is not acceptable under paragraph e, the following shall apply:

(1) If the only defects or deficiencies are punchlist items or incomplete items awaiting seasonal opportunity, the project may be accepted and the Contract executed. If the Owner fails to complete the items within a reasonable time to the satisfaction of the Government, the Government may, upon 30 days notice to the Owner, terminate the Contract and/or exercise its other rights thereunder.

(2) If the defects or deficiencies are other than punchlist items or incomplete work awaiting seasonal opportunity, the Government shall determine whether and to what extent the defects or deficiencies can be corrected, what corrections are essential to permit the Government to accept the project, whether and to what extent a reduction of Contract Rents will be required as a condition to acceptance of the project, and the extension of time required for the remaining work to be done. The Owner shall be notified of the Government's determinations, and, if he agrees to comply with the conditions, an agreement shall be entered into pursuant to which the defects or deficiencies will be corrected and the project then accepted. If the Owner is unwilling to enter into such agreement or if he fails to perform the agreement, the project shall not be accepted.

g. *Notification of Nonacceptance.* If the Government determines that, based on the review of the evidence of completion and inspection, the project cannot be accepted, the Owner shall be promptly notified of this decision and the reasons.

h. *Arbitration.* In the event the Owner disputes the Government determinations, he may submit the controversy to third-party arbitration at his expense: *Provided,* That the arbitration is advisory only.

1. *Completion in Stages.* If the project is to be completed in stages, the procedures of this Section shall apply to each stage.

1.5 *Execution of Housing Assistance Payments Contract.*

a. *Time of Execution.* Upon acceptance of the project by the Government pursuant to §§ 1.3 and 1.4, the Contract shall be executed first by the Owner and then by the Government.

b. *Completion in Stages.* If completion is in stages, the Contract shall be executed upon completion of the first stage, and the number and types of completed units and their Contract Rents shall be shown in Exhibit A-1 of the Contract. Thereafter, upon completion of each successive stage, the signature block provided in the Contract for that stage shall be executed by the Owner and the Government, and Exhibits A-2, A-3, etc., covering the additional units, shall become part of the Contract.

c. *Unleased Units at Time of Execution.* At the time of execution of the Contract, the Government shall examine the lists of dwelling units leased and not leased, referred to in Section 1.3b, and shall determine whether or not the Owner has met his obligations under that section with respect to any unleased units. The Government shall state in writing its determination with respect to the unleased units and for which of those units it will make housing assistance payments pursuant to the Contract. The Owner shall indicate in writing his concurrence with this determination or his disagreement, reserving his rights to claim housing assistance payments for the unleased units pursuant to the Contract, without prejudice by reason of his signing the Contract.

d. *Contract Rents.* The Contract Rents by unit size, amounts of housing assistance payments, and all other applicable terms and conditions shall be as specified in the proposed Housing Assistance Payments Contract, except as provided in Section 1.3a and in paragraph f of this Section (where applicable).

e. *No Changes in Contract.* Each party has read or is presumed to have read the proposed Contract. It is expressly agreed that there shall be no change in the terms and conditions of the Contract other than as provided in this Agreement.

f. *Adjustment of Contract Rents to Reflect Actual Cost of Permanent Financing:*[2] (The provisions of this paragraph shall apply if the project is permanently financed prior to project completion; if the permanent financing does not occur until after project completion, the adjustments contemplated by this paragraph f will be made in accordance with the comparable provisions contained in the Contract). After the project is permanently financed, the Financing Agency shall submit a certification to the Government as to the actual financing terms. If the actual debt service under the permanent financing is lower than the anticipated debt service on which the Contract Rents were based, the initial Contract Rents shall be reduced commensurately, and the amount of the savings shall be credited to the Project Account. The maximum Contract commitment shall not be reduced. If the actual debt service is higher, the Contract Rents shall not be increased.

1.6 *Government Assurance to Owner.*

The execution of this Agreement by the Government signifies that the faith of the United States is solemnly pledged to the payment of housing assistance payments pursuant to the Contract and that funds have

[1] Strike this paragraph if the project involves fewer than nine Contract units.

[2] Delete this paragraph unless the project is subject to 24 CFR 880.125.

been obligated by the Government for such payments.

1.7 *Relocation Requirements.*[3]

[Alternative provisions—incorporate alternative 1 or 2, as applicable.]

Alternative 1—For projects which were without site occupants as of the date indicated in this alternative. The Owner hereby certifies that the site of the project was without occupants as of the date of the Government notification to the Owner requesting the Owner to submit a Final Proposal.

Alternative 2—For projects which do not qualify for alternative 1.

a. *Owner Compliance with Relocation Act.* The Owner agrees that pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, it undertakes liability for (1) the provision of relocation payments and assistance as prescribed in sections 202, 203, and 204 of the Act; (2) the provision of relocation assistance programs offering the services described in section 205 of the Act; and (3) assuring that within a reasonable period of time prior to displacement, Decent, Safe, and Sanitary replacement dwellings will be available to displaced persons.

b. *Relocation Payments Other than by Owner.* The Government has determined that satisfactory commitments have been made for the funding of relocation payments required by sections 202, 203, and 204 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as follows:

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c. *Relocation Payments by Owner.* If paragraph b is inapplicable, the following shall apply:

(1) The maximum potential amount of all relocation payments as estimated by the Government is $\$$----------.

(2) The Owner has deposited this amount in an escrow account under the terms of which payments may be made only upon presentation of written authorization by the Government for the purpose of meeting relocation payments.

(3) The Owner hereby voluntarily undertakes liability for all relocation payments and agrees that, if the funds in the escrow account shall prove to be insufficient to meet all such relocation payments, he will deposit such additional amounts as the Government determines to be necessary for such purpose.

(4) When the Government determines that there is no longer any potential liability for relocation payments, any balance in the escrow account shall be paid to the Owner.

(5) The Owner agrees to hold harmless and to idemnify the Government for any costs incurred under sections 202, 203, and 204 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 in connection with the relocation of site occupants, and the Owner further agrees that the Government shall have the right to be reimbursed for any such costs by withholding from housing assistance payments payable to the Owner.

Effective Date. This Agreement shall be effective as of the date of execution by the Government.

In witness whereof, the parties hereto have executed this Agreement in four original counterparts.

[3] Strike this section in the case of a Private-Owner Project.

WARNING: 18 U.S.C. 1001 provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

UNITED STATES OF AMERICA
SECRETARY OF HOUSING AND URBAN DEVELOPMENT

By ----------

(Official Title)

Date----------, 19--

Owner ----------

By ----------

(Official Title)

Date----------, 19--

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM AGREEMENT TO ENTER INTO HOUSING ASSISTANCE PAYMENTS CONTRACT NEW CONSTRUCTION PRIVATE-OWNER OR PHA-OWNER PROJECT

PART II

2.1 *Training, employment, and contracting opportunities for businesses and lower-income persons.*[4]

a. The project assisted under this Agreement is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

b. Notwithstanding any other provision of this Agreement, the Owner shall carry out the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135 (published in 38 FR 29220, October 23, 1973), and all applicable rules and orders of the Secretary issued thereunder prior to the execution of this Agreement. The requirements of said regulations include, but are not limited to, development and implementation of an affirmative action plan for utilizing business concerns located within, or owned in substantial part by persons residing in, the area of the project; the making of a good faith effort, as defined by the regulations, to provide training, employment, and business opportunities required by section 3; and incorporation of the "section 3 clause" specified by § 135.20(b) of the regulations and paragraph d of this section in all contracts for work in connection with the project. The Owner certifies and agrees that he is under no contractual or other disability which would prevent him from complying with these requirements.

c. Compliance with the provisions of section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Secretary issued thereunder prior to approval by the Government of the application for this Agreement, shall be a condition of the Federal financial assistance provided to the project, binding upon the Owner, his successors and assigns. Failure to fulfill these requirements shall subject the Owner, his contractors and subcontractors, his successors, and assigns to the sanction specified by this Agreement, and to such sanctions as are specified by 24 CFR 135.135.

d. The Owner shall incorporate or cause to be incorporated into any contract or subcontract for work pursuant to this Agreement in excess of $50,000 cost, the following clause:

EMPLOYMENT OF PROJECT AREA RESIDENTS AND CONTRACTORS

A. The work to be performed under this Agreement is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project area, and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

B. The parties to this Agreement will comply with the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Agreement. The parties to this Agreement certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

C. The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

D. The contractor will include this section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135, and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

E. Compliance with the provisions of section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the Agreement, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR 135.135.

e. The Owner agrees that he will be bound by the above Employment of Project Area

[4] Strike this Section if the Contract Rents under the proposed Housing Assistance Payments Contract, over the maximum term of said Contract, are $500,000 or less.

Residents and Contractors clause with respect to his own employment practices when he participates in federally assisted work.

2.2 *Equal Employment Opportunity.*[5]

a. The Owner shall incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is to be performed pursuant to this Agreement, the following Equal Opportunity clause:

EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, sex, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment, or recruitment advertising, lay-off or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees, and applicants for employment, notices to be provided by or at the direction of the Government setting forth the provisions of this Equal Opportunity clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, creed, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by or at the direction of the Government advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by HUD and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the Equal Opportunity clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor or as otherwise provided by law.

(7) The contractor will include the portion of the sentence immediately preceding Paragraph (1) and the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Government may direct as a means of enforcing such provisions including sanctions for noncompliance; *Provided, however,* That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Government, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

b. The Owner agrees that he will be bound by the above Equal Opportunity clause with respect to his own employment practices when he participates in federally assisted construction work.

c. The Owner agrees that he will assist and cooperate actively with HUD and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the Equal Opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that he will furnish HUD and the Secretary of Labor such information as they may require for the supervision of such compliance, and that he will otherwise assist HUD in the discharge of HUD's primary responsibility for security compliance.

d. The Owner further agrees that he will refrain from entering into any contract or contract modification subject to Executive Order No. 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the Equal Opportunity clause as may be imposed upon contractors and subcontractors by HUD or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order.

2.3 *Cooperation in Equal Opportunity Compliance Reviews.*

The Owner shall cooperate with the Government in the conducting of compliance reviews and complaint investigations pursuant to all applicable civil rights statutes, Executive Orders, and rules and regulations pursuant thereto.

2.4 *Flood Insurance.*

If the project is located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards and if the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, the Owner agrees that the project will be covered, during its anticipated economic or useful life, by flood insurance in an amount at least equal to its development or project cost (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less.

2.5 *Clean Air Act and Federal Water Pollution Control Act.*[6]

In compliance with regulations issued by the Environmental Protection Agency ("EPA"), 40 CFR Part 15, 39 FR 11099, pursuant to the Clean Air Act, as amended ("Air Act"), 42 U.S.C. 1857, et seq., the Federal Water Pollution Control Act, as amended ("Water Act"), 33 U.S.C. 1251, et seq., and Executive Order 11738, the Owner agrees that:

a. Any facility to be utilized in the performance of this Agreement or any subcontract shall not be a facility listed on the EPA List of Violating Facilities pursuant to § 15.20 of said regulations;

b. He will promptly notify the Department of Housing and Urban Development field office director of the receipt of any communication from the EPA indicating that a facility to be utilized for the Agreement is under consideration to be listed on the EPA List of Violating Facilities.

c. He will comply with all the requirements of section 114 of the Air Act and section 308 of the Water Act relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in section 114 and section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder; and

d. He will include or cause to be included the provisions of this section in every nonexempt subcontract, and that he will take such action as the Government may direct as a means of enforcing such provisions.

2.6 *Prevailing Wage Rates.*[7]

a. Attached hereto and incorporated herein as Exhibit D is a schedule of minimum rates of wages applicable to this Agreement.

b. All laborers and mechanics employed in the construction of the project shall be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amounts due at the time of payment computed at wage rates not less than those contained in the wage determination decision of the Secretary of Labor of the United States, which is incorporated herein, regardless of any contractual relationship which may be alleged to exist between the Owner or any subcontractor and such laborers and mechanics; and the wage determination decision and the Department of Labor Wage Rate Information Poster shall be posted by the Owner at the site of the work in a prominent place where it can be easily seen by the workers. For the purpose of this clause, contributions made or costs reasonably anticipated under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics subject to the provisions of paragraph c of this Section. Also for the purpose of this clause, regular contributions made or costs incurred for more than a weekly period under plans, funds, or programs, but covering the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

c. The Owner may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, or any bona fide fringe benefits not expressly listed in section 1(b)(2) of the Davis-Bacon Act or otherwise not listed in the wage determination decision of the Secretary of Labor which is included in this

[5] As used in Section 2.2, "HUD" means the United States of America acting through the Department of Housing and Urban Development.

[6] Strike this Section if the Contract Rents under the proposed Housing Assistance Payments Contract, over the maximum term of said Contract, are $100,000 or less.

[7] As used in Sections 2.6 through 2.11, "HUD" means the United States of America acting through the Department of Housing and Urban Development. Strike Sections 2.6 through 2.11 if the project involves fewer than nine Contract units.

Agreement, only when the Secretary of Labor has found, upon the written request of the Owner, that the applicable standards of the Davis-Bacon Act have been met. Whenever practicable, the Owner should request the Secretary of Labor to make such findings before the making of the Agreement. In the case of unfunded plans and programs, the Secretary of Labor may require the Owner to set aside in a separate account assets for the meeting of obligations under the plan or program.

d. The Owner shall comply with the Copeland (Anti-Kickback) Regulations (29 CFR Part 3) of the Secretary of Labor which are herein incorporated by reference.

e. Any class of laborers or mechanics (including apprentices and trainees) which is not listed in the wage determination and which is to be employed under the Agreement shall be classified or reclassified conformably to the wage determination. In the event that agreement cannot be reached on the proper classification or reclassification of a particular class of laborers and mechanics (including apprentices and trainees) to be used, the question will be referred by HUD to the Secretary of Labor for final determination.

f. Whenever the minimum wage rate prescribed in the Agreement for a class of laborers or mechanics include a fringe benefit which is not expressed as an hourly wage rate and the Owner is obligated to pay a cash equivalent of such a fringe benefit, an hourly cash equivalent thereof shall be established. In the event that agreement cannot be reached upon a cash equivalent of the fringe benefit, the question will be referred by HUD to the Secretary of Labor for final determination.

g. (1) (i) Apprentices will be permitted to work as such only when they are registered individually under a bona fide apprenticeship program registered with a State apprenticeship agency which is recognized by the Bureau of Apprenticeship and Training, U.S. Department of Labor; or, if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, U.S. Department of Labor. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the Owner as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not a trainee as defined in subsection (b) immediately following or is not registered as above, shall be paid the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The Owner will be required to furnish to the other party to this Agreement written evidence of the registration of his program and apprentices, as well as of the appropriate ratios and wage rates for the area of construction prior to using any apprentices on the contract work.

(ii) Trainees will be permitted to work as such when they are bona fide trainees employed pursuant to a program approved by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training, and where subsection (c) immediately following is applicable, in accordance with the provisions of paragraph g(2) of this section.

(iii) On contracts in excess of $10,000 the employment of all laborers and mechanics, including apprentices and trainees, as defined in 29 CFR, 5.2(c) shall also be subject to the provisions of paragraph g(2) of this Section. Apprentices and trainees shall be hired in accordance with the provisions of paragraph g(2).

(2) The Owner agrees that:

(i) He will make a diligent effort to hire for the performance of the Agreement a number of apprentices or trainees, or both, in each occupation, which bears to the average number of the journeymen in that occupation to be employed in the performance of the Agreement the applicable ratio as determined by the Secretary of Labor;

(ii) He will assure that 25 percent of such apprentices or trainees in such occupation are in their first year of training, where feasible. Feasibility here involves a consideration of (A) the availability of training opportunities for first year apprentices, (B) the hazardous nature of the work for beginning workers, (C) excessive unemployment of apprentices in their second and subsequent years of training;

(iii) During the performance of the Agreement he will, to the greatest extent possible, employ the number of apprentices or trainees necessary to meet currently the requirements of (i) and (ii) immediately preceding;

(iv) He will maintain records of employment by trade of the number of apprentices and trainees, apprentices and trainees by first year of training, and of journeymen, and the wages paid and hours of work of such apprentices, trainees and journeymen; and he will make these records available for inspection upon request of the Department of Labor and HUD;

(v) If he claims compliance based on the criterion stated in 29 CFR 5a.4(b), he will maintain records of employment, as described in the immediately preceding paragraph, on non-Federal and nonfederally assisted construction work done during the performance of the contract in the same labor market area; and he will make these records available for inspection upon request of the Department of Labor and HUD;

(vi) He will supply one copy of the written notices required in accordance with 29 CFR 5a.4(c) at the request of Government compliance officers, and will supply at three-month intervals during the performance of the Agreement and after completion of Agreement performance a statement describing steps taken toward making a diligent effort and containing a breakdown by craft, of hours worked and wages paid for first year apprentices and trainees, other apprentices and trainees, and journeymen. One copy of the statement will be sent to HUD and one to the Secretary of Labor.

2.7 *Submittal of payrolls and related reports.*

a. Payrolls and basic records relating thereto shall be maintained during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics employed in the construction of the project. Such records shall contain the name and address of each such employee, his correct classification, rates of pay (including rates of contributions or costs anticipated of the types described in section 1(b)(2) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found under Section 2.6c that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Owner shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

b. The Owner shall submit weekly to the other party to this Agreement such copies and summaries of all his payrolls and those of each of his subcontractors as such other party may require. Each payroll and summary shall be accompanied by a statement signed by the employer or his agent indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the Secretary of Labor, and that the classifications set forth for each laborer or mechanic conform with the work he performed. A submission of a "Weekly Statement of Compliance," which is required under this Agreement and the Copeland Regulations of the Secretary of Labor (29 CFR Part 3), and the filing with the initial payroll or any subsequent payroll of a copy of any findings by the Secretary of Labor under Section 2.6c shall satisfy this requirement. The Owner shall make the records required under the labor standards clauses of this Agreement available for inspection by authorized representatives of HUD and the Department of Labor, and will permit such representatives to interview employees during working hours on the job.

c. The Owner shall also furnish to the other parties to this Agreement any other information or certifications relating to employees in such form as such other party may request.

2.8 *Disputes concerning wage rates and classifications of labor.*

a. All disputes concerning prevailing wage rates or classifications arising under this Agreement involving (1) significant sums of money, (2) large groups of employees, or (3) novel or unusual situations shall be promptly reported to HUD for decision or, at the option of HUD, referral to the Secretary of Labor of the United States. The decision of HUD or the Secretary of Labor, as the case may be, shall be final.

b. All questions arising under this Agreement relating to the application or interpretation of the Copeland (Anti-Kickback) Act shall be referred to the Secretary of Labor of the United States for ruling or interpretation, and such ruling or interpretation shall be final.

2.9 *Wage claims and adjustments.*

In cases of underpayment of salaries or wages to any laborers or mechanics (including apprentices and trainees) by the Owner (or any of his subcontractors), the Owner shall be required to place an amount in escrow, as determined by HUD, sufficient to pay persons employed on the work covered by the Agreement the difference between the salaries or wages actually paid such employees for the total number of hours worked, and the amounts withheld may be disbursed by HUD for and on account of the Owner or the subcontractor to the respective employees to whom they are due.

2.10 *Contract Work Hours and Safety Standards Act—Overtime Compensation.*

a. Neither the Owner nor any subcontractor contracting for any part of the work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of forty hours in any such workweek, as the case may be.

b. In the event of any violation of the clause set forth in paragraph a of this Section, the Owner and any subcontractor responsible therefor shall be liable to any affected employee for his unpaid wages. In addition, such Owner and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed, with respect to each individual laborer or mechanic employed in violation of the clause set forth in paragraph a of this Section, in the sum of $10 for each calendar

day on which such employee was required or permitted to work in excess of eight hours or in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph a.

c. The Owner shall deposit in escrow such amounts determined by HUD to be necessary to satisfy any liability of the Owner or any subcontractor for liquidated damages as provided in paragraph b of this Section.

2.11 *Termination; Debarment; Subcontracts.*

a. A breach of the provisions of the foregoing Sections 2.6, 2.7, 2.8, 2.9, and 2.10 may be grounds for termination of this Agreement and for debarment as provided in 29 CFR, Section 5.6.

b. The Owner shall insert in any subcontracts Sections 2.6 (and with respect to Section 2.6g(2), copies of 29 CFR 5a.4, 5a.5, 5a.6 and 5a.7 shall be attached), 2.7, 2.8, 2.9, 2.10, and 2.11a, and also a clause requiring the subcontractors to include these Sections in any lower tier subcontract which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

2.12 *Disputes.*

a. Except as otherwise provided herein, any dispute concerning a question of fact arising under this Agreement which is not disposed of by agreement between the Department of Housing and Urban Development field office and the Owner may be submitted by the Owner to the Secretary of Housing and Urban Development. The decision of the Secretary or duly authorized representative for the resolution of such disputes shall be final and conclusive, unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any proceeding under this Section, the Owner shall be afforded an opportunity to be heard and to offer evidence in support of his position.

b. This Section does not preclude consideration of questions of law in connection with the decision rendered under paragraph a of this section: *Provided, however,* That nothing herein shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

2.13 *Interest of Members, Officers, or Employees of Public Housing Agency, Members of Local Governing Body, or other Public Officials.*

No member, officer, or employee of the Public Housing Agency ("PHA"), no member of the governing body of the locality (city and county) in which the project is situated, no member of the governing body of the locality in which the PHA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this Agreement or in any proceeds or benefits arising therefrom.

2.14 *Interest of Member of or Delegate to Congress.*

No member of or delegate to the Congress of the United States of America or resident commissioner shall be admitted to any share or part of this Agreement or to any benefits which may arise therefrom.

2.15 *Nonassignability.*

a. The Owner agrees that he has not made and will not make any sale, assignment, or conveyance or transfer in any other form, of this Agreement or the project or any part thereof or any of his interest therein, without the prior consent of the Government; *Provided, however,* That in the case of an assignment as security for the purpose of obtaining financing of the project, the Government shall consent in writing if the terms of the financing have been approved by the Government. An assignment by the Owner to a limited partnership of which the Owner is the sole general partner shall not be considered an assignment herein.

b. The Owner agrees that he will not change to a different developer from the one named in the preamble of this Agreement, except with the prior consent of the Government.

c. The Owner agrees that the approved developer has not made, and will not make, except with the prior consent of the Government, any assignment or transfer in any form of the developer's contract to construct the project, or of any part thereof, or any of the developer's interests therein.

d. The Owner agrees to notify the Government promptly of any proposed action covered by paragraph a or b or c of this Section. The Owner further agrees to request the written consent of the Government in regard thereto, except in the case of an assignment as security as provided in paragraph a of this section.

e. For the purpose of this section, a transfer of stock in the Owner or developer in whole or in part, by a party holding ten percent or more of the stock of said Owner or developer, or a transfer by more than one stockholder or the owner of 10 percent or more of the stock of said Owner, or any other similarly significant change in the ownership of such stock or in the relative distribution thereof, or with respect to the parties in control of the Owner or developer or the degree thereof, by any other method or means, whether by increased capitalization, merger with another corporation, corporate or other amendments, issuance of new or additional stock or classification of stock or otherwise, shall be deemed an assignment, conveyance, or transfer with respect to this Agreement, the project or the construction contract. With respect to this provision, the Owner, and the party signing this Agreement on behalf of said Owner, represent that they have the authority of all of the existing stockholders of the Owner to agree to this provision on behalf of said stockholders and to bind them with respect thereto.

APPENDIX II—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—HOUSING ASSISTANCE PAYMENTS CONTRACT, NEW CONSTRUCTION, PRIVATE-OWNER OR PHA-OWNER PROJECT

PART I

This Housing Assistance Payments Contract ("Contract") is entered into by and between the United States of America acting through the Department of Housing and Urban Development ("Government"), and _____ ("Owner"), pursuant to the United States Housing Act of 1937 ("Act"), 42 U.S.C. 1437, et seq., and the Department of Housing and Urban Development Act, 42 U.S.C. 3531, et seq.

The parties hereto agree as follows:

1.1 *Significant dates and other items; contents of contract.*

a. *Effective Date of Contract.* The effective date of this Contract is _____, 19__. (This date shall be no earlier than the date of execution by the Government.)

b. *Initial Term of Contract.* The initial term of this Contract (see Section 1.4a) shall be __ years [not to exceed five years], beginning with the effective date of this Contract and ending _____, 19__.

c. *Number and Length of Optional Additional Terms.* The number and length of optional additional terms (see Section 1.4a) shall be _____ terms of __ years each [not to exceed five years each].

d. *Maximum Total Term of Contract.* The maximum total term of this Contract, including renewals (see Section 1.4a) shall be __ years. (Insert 20, except that (1) in the case of a project owned by, or financed by a loan or loan guarantee from, a State or local Agency, insert the number, not to exceed 40, which will provide a term ending with the scheduled maturity date for the last payment under such financing, and (2) in the case of a mobile homes project, insert number as authorized by the Government pursuant to 24 CFR 830.109, not to exceed 20.)

e. *Fiscal Year.* The ending date of each Fiscal Year (see Section 1.4b) shall be _____ (insert March 31, June 30, September 30, or December 31, as determined by the Government).

f. *Maximum Housing Assistance Commitment.* The maximum amount of the commitment for housing assistance payments under this Contract (see Section 1.5a) is $_____ _____ per annum.

g. *Contents of Contract.* This Contract consists of Part I, Part II, and the following exhibits:

Exhibit A: The schedule showing the number of units by size ("Contract Units") and their applicable rents ("Contract Rents");

Exhibit B: The project description;

Exhibit C: The statement of services, maintenance and utilities to be provided by Owner;

Exhibit D: The Affirmative Fair Housing Marketing Plan, if applicable; and

Additional exhibits: (Specify additional exhibits, if any. If none, insert "None.")

This Contract including said exhibits, comprises the entire agreement between the parties hereto, and neither party is bound by any representations or agreements of any kind except as contained herein.

1.2 *Owner's Warranties.*

a. *Legal Capacity.* The Owner warrants that he has the legal right to execute this Contract and to lease dwelling units covered by this Contract.

b. *Completion of Work.* The Owner warrants that the project as described in Exhibit B is in good and tenantable condition and that the project has been completed in accordance with the terms and conditions of the Agreement to Enter into Housing Assistance Payments Contract ("Agreement") or will be completed in accordance with the terms on which the project was accepted. The Owner further warrants that he will remedy any defects or omissions covered by this warranty if called to his attention within 12 months of the effective date of this Contract. The Owner and the Government agree that the continuation of this Contract shall be subject to the conditions set forth in Section 1.4f of the Agreement.

1.3 *Families to be housed; Government Assistance.*

a. *Families to be housed.* The Contract Units are to be leased by the Owner to eligible Lower-Income Families ("Families") for use and occupancy by such Families solely as private dwellings.

b. *Government assistance.* (1) The Government hereby agrees to make housing assistance payments on behalf of Families for the Contract Units, to enable such Families to lease Decent, Safe, and Sanitary housing pursuant to section 8 of the Act. Such housing assistance payments shall equal the difference between the Contract Rents for units leased by Families and the portion of such rents payable by Families as determined by the Owner in accordance with schedules and criteria established by the Government.

(2) If there is an Allowance for Utilities and Other Services and if such Allowance exceeds the Gross Family Contribution, the Owner shall pay the Family the amount of such excess on behalf of the Government upon receipt of funds from the Government for that purpose.

1.4 *Term of Contract; Fiscal Year.*

a. *Term of Contract.* (Alternative provisions—incorporate alternative 1, 2, or 3, as applicable.)

Alternative 1—General. The initial term of this Contract shall be as stated in Section 1.1b. This Contract may be renewed, at the sole option of the Owner, for the number and length of additional terms stated in Section 1.1c: *Provided,* That the total Contract term for any unit, including renewals, shall not exceed the number of years stated in Section 1.1d. Renewal shall be automatic unless the Owner notifies the Government, no later than 60 days prior to the expiration of the current term, of his intention not to renew. If the project is completed in stages, the dates for the initial term and renewal terms shall be separately related to the units in each stage: *Provided, however,* That the total Contract term for the units in all the stages, beginning with the effective date of the Contract with respect to the first stage, shall not exceed the total Contract term stated in Section 1.1d, plus two years.

Alternative 2—For mobile homes project. In the case of mobile homes, the initial term of this Contract for each mobile home shall be as stated in Section 1.1b. This Contract shall be renewed, as may be mutually agreed upon by the Owner and the Government, with respect to any mobile home, for the number and length of additional terms as stated in Section 1.1c: *Provided,* That the total Contract term for any mobile home, including renewals, shall not exceed the number of years stated in Section 1.1d. Renewals shall become effective only if either party gives written notice, no later than 60 days prior to the expiration of the current term, of his desire to renew, and the other party concurs or fails to object before the expiration of the current term. If the project is completed in stages, the dates for the initial term and renewal terms shall be separately related to the mobile homes in each stage: *Provided, however,* That the total Contract term for the mobile homes in all stages, beginning with the effective date of the Contract with respect to the first stage, shall not exceed the total Contract term stated in Section 1.1d, plus two years. For purposes of this paragraph a, the term "mobile home" means the original mobile home and any replacement(s), combined.

b. *Fiscal Year.* The Fiscal Year for the project shall be the 12-month period ending on the date stated in Section 1.1e: *Provided, however,* That the first Fiscal Year for the project shall be the period beginning with the effective date of the Contract and ending on the last day of said established Fiscal Year which is not less than 12 months after such effective date. If the first Fiscal Year exceeds 12 months, the maximum total annual housing assistance payment in Section 1.5a may be adjusted by the addition of the pro rata amount applicable to the period of operation in excess of 12 months.

1.5 *Maximum Housing Assistance Commitment; Project Account.*

a. *Maximum Housing Assistance Commitment.* Notwithstanding any other provisions of this Contract (other than paragraph b of this Section) or any provisions of any other Contract between the Government and the Owner, the Government shall not be obligated to make and shall not make any housing assistance payments under this Contract in excess of the amount per annum stated in Section 1.1f: *Provided, however,* That this amount shall be reduced commensurately with any reduction in the number of Contract Units or in the Contract Rents or pursuant to any other provisions of this Contract.

b. *Project Account.* In order to assure that housing assistance payments will be increased on a timely basis to cover increases in Contract Rents or decreases in Family Incomes:

(1) A Project Account shall be established and maintained, in an amount as determined by the Government consistent with its responsibilities under section 8(c)(6) of the Act, out of amounts by which the maximum Contract commitment per year exceeds amounts paid under the Contract for any Fiscal Year. This account shall be established and maintained by the Government as a specifically identified and segregated account. To the extent funds are available in said account, the maximum total annual housing assistance payments for any Fiscal Year may exceed the maximum amount stated in paragraph a of this Section to cover increases in Contract Rents or decreases in Family Incomes (see Section 1.8). Any amount remaining in said account after payment of the last housing assistance payment with respect to the project shall be applied by the Government in accordance with law.

(2) Whenever the Government approved estimate of the required Annual Contribution exceeds the maximum contract commitment then in effect, and would cause the amount in the Project Account to be less than an amount equal to 40 percent of such maximum Contract commitment, the Government shall, within a reasonable period of time, take such additional steps authorized by section 8 (c)(6) of the Act as may be necessary to carry out this assurance, including (as provided in that section of the Act) "the reservation of annual contributions authority for the purpose of amending housing assistance contracts or the allocation of a portion of new authorizations for the purpose of amending housing assistance contracts."

1.6 *Housing Assistance Payments to Owners.*

a. *General.* (1) Housing assistance payments shall be paid to the Owner for units under lease by Families in accordance with the Contract. The housing assistance payment will cover the difference between the Contract Rent and that portion of said rent payable by the Family as determined in accordance with the Government-established schedules and criteria.

(2) The amount of housing assistance payment payable on behalf of a Family and the amount of rent payable by such Family shall be subject to change by reason of changes in Family Income, Family composition, or extent of exceptional medical or other unusual expenses, in accordance with the Government-established schedules and criteria; or by reason of adjustment by the Government of any applicable Allowance for Utilities and Other Services. Any such change shall be effective as of the date stated in a notification of such change to the Family.

b. *Vacancies During Rent-up.* If a Contract Unit is not leased as of the effective date of the Contract, the Owner shall be entitled to housing assistance payments in the amount of 80 percent of the Contract Rent for the unit for a vacancy period not exceeding 60 days from the effective date of the Contract: *Provided,* That the Owner (1) commenced marketing and otherwise complied with Section 1.3b of the Agreement, (2) has taken and continues to take all feasible actions to fill the vacancy, including, but not limited to, contacting applicants on his waiting list, if any, requesting the Public Housing Agency ("PHA") and other appropriate sources to refer eligible applicants, and advertising the availability of the unit, and (3) has not rejected any eligible applicant, except for good cause acceptable to the Government.

c. *Vacancies After Rent-up.* (1) If a Family vacates its unit (other than as a result of action by the Owner which is in violation of the Lease or the Contract or any applicable law), the Owner shall receive housing assistance payments in the amount of 80 percent of the Contract Rent for a vacancy period not exceeding 60 days: *Provided, however,* That if the Owner collects any of the Family's share of the rent for this period in an amount which, when added to the 80 percent payments, results in more than the Contract Rent, such excess shall be payable to the Government or as the Government may direct. (See also Section 1.9b.) The Owner shall not be entitled to any payment under this subparagraph unless he: (i) immediately upon learning of the vacancy, has notified the Government of the vacancy or prospective vacancy and the reasons for the vacancy, and (ii) has taken and continues to take the actions specified in paragraphs b(2) and b(3) of this section.

(2) If the Owner evicts a Family, he shall not be entitled to any payment under paragraph c(1) of this section unless the request for such payment is supported by a certification that (i) he gave such Family a written notice of the proposed eviction stating the grounds and advising the Family that it had 10 days within which to present its objections to the Owner in writing or in person and (ii) the proposed eviction was not in violation of the Lease or the Contract or any applicable law.

d. *Limitation on Payments for Vacant Units.* The Owner shall not be entitled to housing assistance payments with respect to vacant units under this section to the extent he is entitled to payments from other sources (e.g., payments for losses of rental income incurred for holding units vacant for relocatees pursuant to Title I of the Housing and Community Development Act of 1974 or payments under Section 1.9b of this Contract).

e. *Government not obligated for Family Rent.* The Government has not assumed any obligation for the amount of rent payable by any Family or the satisfaction of any claim by the Owner against any Family other than in accordance with Section 1.9b of this Contract. The financial obligation of the Government is limited to making housing assistance payments on behalf of Families in accordance with this Contract.

f. *Owner's monthly requests for payments.* (1) The Owner shall submit monthly requests to the Government for housing assistance payments. Each such request shall set forth: (i) The name of each Family and the address and/or number of the unit leased by the Family; (ii) the address and/or the number of units, if any, not leased to Families for which the Owner is claiming payments; (iii) the Contract Rent as set forth in Exhibit A for each unit for which the Owner is claiming payments; (iv) the amount of rent payable by the Family leasing the unit (or, where appropriate, the amount to be paid the Family in accordance with § 1.3b(2)); and (v) the total amount of housing assistance payments requested by the Owner.

(2) Each of the Owner's monthly requests shall contain a certification by him that to the best of his knowledge and belief (i) the dwelling units are in Decent, Safe, and Sanitary condition, (ii) all the other facts and data on which the request for funds is based are true and correct, (iii) the amount requested has been calculated in accordance with the provisions of this Contract and is payable under the Contract, and (iv) none of the amount claimed has been previously claimed or paid.

(3) If the Owner has received an excessive payment, the Government, in addition to any other rights to recovery, may deduct the amount from any subsequent payment or payments.

(4) The Owner's monthly requests for housing assistance payments shall be made subject to penalty under 18 U.S.C. 1001, which provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

g.[1] *Recoupment of savings in financing cost.* (1) In the event that the interim financing is continued beyond one year from the effective date of the Contract and the interest cost of the interim financing for any period of three months, after such first year, is less than the anticipated debt service under the permanent financing on which the Contract Rents were based, an amount reflecting the savings in financing cost, computed in accordance with paragraph g(2) of this section, shall be credited by the Government to the Project Account, and withheld from housing assistance payments to the Owner. If during the course of the same year there is any period of three months in which the financing cost is greater than the anticipated debt service under the permanent financing, an adjustment shall be made so that only the net amount of savings in financing cost for the year is credited by the Government to the Project Account and withheld from housing assistance payments to the Owner as aforesaid (no increased payments shall be made to the Owner on account of any net excess for the year of actual interim financing cost over the anticipated debt service under the permanent financing). Nothing in this paragraph g shall be construed as requiring a reduction in the Contract Rents or precluding adjustments of Contract Rents in accordance with Section 1.8.

(2) The computation and recoupment under this paragraph g may be made on an annual or on a quarterly or other periodic basis, but in any event no later than as of the end of each Fiscal Year: *Provided, however,* That if recoupment is to be made less often than quarterly, the amounts of recoupment shall be computed on at least a quarterly basis and the funds deposited in a special account from which withdrawals may be made only with the authorization of HUD. The manner of computing the amount of recoupment shall be as follows:

(i) Determine the amount by which the interest cost for the interim financing for the period in question is less than the anticipated debt service under the permanent financing on which the Contract Rents were based;

(ii) Determine what percentage the amount found under paragraph g(2)(i) of this section is of the aggregate Contract Rents for all Contract Units for the period in question;

(iii) Apply the percentage found in paragraph g(2)(ii) of this section to the aggregate Contract Rents for those Contract Units which are included in the Owner's claim(s) for housing assistance payments for the period in question; and

(iv) The amount found in paragraph g(2)(iii) of this section shall be credited to the Project Account and withheld from the next housing assistance payment or payments to the Owner.

1.7 *Maintenance, Operation and Inspection.*

a. *Maintenance and operation.* The Owner agrees (1) to maintain and operate the Contract Units and related facilities so as to provide Decent, Safe, and Sanitary housing, and (2) to provide all the services, maintenance and utilities set forth in Exhibit C. If the Government determines that the Owner is not meeting any of these obligations, the Government shall have the right, in addition to its other rights and remedies under this Contract, to abate housing assistance payments in whole or in part.

b. *Inspection.* (1) Prior to occupancy of any unit by a Family, the Owner and the Family shall inspect the unit and both shall certify, on forms prescribed by the Government, that they have inspected the unit and have determined it to be Decent, Safe, and Sanitary in accordance with the criteria provided in the prescribed forms. Copies of these reports shall be kept on file by the Owner for at least three years.

(2) The Government shall inspect or cause to be inspected each Contract Unit and related facilities at least annually and at such other times (including prior to initial occupancy and rerenting of any unit) as may be necessary to assure that the Owner is meeting his obligation to maintain the units in Decent, Safe, and Sanitary condition and to provide the agreed upon utilities and other services. The Government shall take into account complaints by occupants and any other information coming to its attention in scheduling inspections and shall notify the Owner and the Family of its determination.

c. *Units not decent, safe, and sanitary.* If the Government notifies the Owner that he has failed to maintain a dwelling unit in Decent, Safe, and Sanitary condition and the Owner fails to take corrective action within the time prescribed in the notice, the Government may exercise any of its rights or remedies under the Contract, including abatement of housing assistance payments, even if the Family continues to occupy the unit. If, however, the Family wishes to be rehoused in another dwelling unit with section 8 assistance and the Government does not have other section 8 funds for such purposes, the Government may use the abated housing assistance payments for the purpose of rehousing the Family in another dwelling unit. Where this is done, the Owner shall be notified that he will be entitled to resumption of housing assistance payments for the vacated dwelling unit if: (1) The unit is restored to Decent, Safe, and Sanitary condition, (2) the Family is willing to and does move back into the restored unit, and (3) a deduction is made for the expenses incurred by the Family for both moves.

d. *Notification of abatement.* Any abatement of housing assistance payments shall be effective as provided in written notification to the Owner. The Government shall promptly notify the Family of any such abatement.

e. *Overcrowded and Underoccupied Units.* If the Government determines that a Contract Unit is not Decent, Safe, and Sanitary by reason of increase in Family size, or that a Contract Unit is larger than appropriate for the size of the Family in occupancy, housing assistance payments with respect to such unit will not be abated, unless the Owner fails to offer the Family a suitable unit as soon as one becomes vacant and ready for occupancy. In the case of an overcrowded unit, if the Owner does not have any suitable units or if no vacancy of a suitable unit occurs within a reasonable time, the Government will assist the Family in finding a suitable dwelling unit and require the Family to move to such a unit as soon as possible. The Owner may receive housing assistance payments for the vacated unit if he complies with the requirements of Section 1.6c(1).

1.8 *Rent Adjustments.*

a. *Funding of Adjustments.* Housing assistance payments will be made in increased amounts commensurate with Contract Rent adjustments under this section, up to the maximum amount authorized under Section 1.5a of this Contract.

b. Automatic Annual Adjustments. (1) Automatic Annual Adjustment Factors will be determined by the Government at least annually; interim revisions may be made as market conditions warrant. Such Factors and the basis for their determination will be published in the FEDERAL REGISTER. These published Factors will be reduced appropriately by the Government where utilities are paid directly by the Families.

(2) On each anniversary date of the Contract, the Contract Rents shall be adjusted by applying the applicable Automatic Annual Adjustment Factor most recently published by the Government. Contract Rents may be adjusted upward or downward, as may be appropriate; however, in no case shall the adjusted Contract Rents be less than the Contract Rents on the effective date of the Contract.

c. *Special Additional Adjustments.* Special additional adjustments may be granted, when approved by the Government, to reflect increases in the actual and necessary expenses of owning and maintaining the Contract Units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs (i.e., assessments, and utilities not covered by regulated rates), but only if and to the extent that the Owner clearly demonstrates that such general increases have caused increases in the Owner's operating costs which are not adequately compensated for by automatic annual adjustments. The Owner shall submit to the Government financial statements which clearly support the increase.

d. *Overall Limitation.* Notwithstanding any other provisions of this Contract, adjustments as provided in this section shall not result in material differences between the rents charged for assisted and comparable unassisted units, as determined by the Government establishing the effective date of the adjustment.

e. *Incorporation of Rent Adjustment.* Any adjustment in Contract Rents shall be incorporated into Exhibit A by a date addendum to the exhibit establishing the effective date of the adjustment.

1.[2] *Adjustment to Reflect Actual Cost of Permanent Financing.* This paragraph f shall apply if the project is not permanently financed until after the effective date of the Contract. After the project is permanently financed, the Financing Agency shall submit a certification to the Government as to the actual financing terms. If the actual debt service under the permanent financing is lower than the anticipated debt service on which the Contract Rents were based, the Contract Rents currently in effect shall be reduced commensurately, and the amount of the savings shall be credited to the Project Account. The maximum Contract commitment shall not be reduced. If the actual debt service is higher, the Contract Rents shall not be increased.

1.9 *Marketing and Leasing of Units.*

a. *Compliance with Equal Opportunity.* Marketing of units and selection of Families by the Owner shall be in accordance with the Owner's Government-approved Affirmative Fair Housing Marketing Plan, shown as Exhibit D, and with all regulations relating to fair housing advertising.

b. *Security and Utility Deposits.* (1) The Owner may require Families to pay a security deposit in an amount equal to one month's Gross Family Contribution. If a Family vacates it unit, the Owner, subject to State and local law, may utilize the deposit as re-

[1] Delete this paragraph unless the project is subject to 24 CFR 880.125.

[2] Delete this paragraph unless the project is subject to 24 CFR 880.125.

imbursement for any unpaid rent or other amount owed under the Lease. If the Family has provided a security deposit, and it is insufficient for such reimbursement, the Owner may claim reimbursement from HUD, not to exceed an amount equal to the remainder of one month's Contract Rent. Any reimbursement under this section shall be applied first toward any unpaid rent. If a Family vacates the unit owing no rent or other amount under the Lease or if the amount owed is less than the amount of the security deposit, the Owner shall refund the full amount or the unused balance, as the case may be, to the Family.

(2) In those jurisdictions where interest is payable by the Owner on security deposits, the refunded amount shall include the amount of interest payable. All security deposit funds shall be deposited by the Owner in a segregated bank account, and the balance of this account, at all times, shall be equal to the total amount collected from tenants then in occupancy, plus any accrued interest. The Owner shall comply with all State and local laws regarding interest payments on security deposits.

(3) Families shall be expected to obtain the funds to pay security and utility deposits, if required, from their own resources and/or other private or public sources.

c. *Eligibility, selection and admission of Families.* (1) The Owner shall be responsible for determination of eligibility of applicants, selection of families from among those determined to be eligible, and computation of the amount of housing assistance payments on behalf of each selected Family in accordance with schedules and criteria established by the Government. In the initial renting of the Contract Units, the Owner shall lease at least 30 percent to Very Low-Income Families (determined in accordance with the Government-established schedules and criteria) and shall thereafter exercise his best efforts to maintain at least 30 percent occupancy of the Contract Units by Very Low-Income Families as determined in accordance with such schedules and criteria.

(2) The Lease entered into between the Owner and each selected Family shall be on the form of Lease approved by the Government.

(3) The Owner shall make a reexamination of Family Income, composition, and the extent of medical or other unusual expenses incurred by the Family, at least annually (except that such reviews may be made at intervals of no longer than two years in the case of elderly Families), and appropriate redeterminations shall be made by the Owner of the amount of Family contribution and the amount of housing assistance payment, all in accordance with schedules and criteria established by the Government. In connection with the reexamination, the Owner shall determine what percentage of Families in occupancy are Very Low-Income Families. If there are fewer than 30 percent Very Low-Income Families in occupancy, the Owner shall report the fact to the Government and shall adopt changes in his admission policies to achieve, as soon as possible, at least 30 percent occupancy by such Families.

d. *Rent Redetermination after Adjustment in Allowance for Utilities and Other Services.* In the event that the Owner is notified of a Government determination making an adjustment in the Allowance for Utilities and Other Services applicable to any of the Contract Units, the Owner shall promptly make a corresponding adjustment in the amount of rent to be paid by the affected Families and the amount of housing assistance payments.

e. *Processing of Applications and Complaints.* The Owner shall process applications for admission, notifications to applicants, and complaints by applicants in accordance with applicable Government requirements and shall maintain records and furnish such copies or other information as may be required by the Government.

f. *Government Review; Incorrect Payments.* In making housing assistance payments to Owners, the Government will review the Owner's determinations under this Section. If as a result of this review, or other reviews, audits or information received by the Government at any time, it is determined that the Owner has received improper or excessive housing assistance payments, the Government shall have the right to deduct the amount of such overpayments from any amounts otherwise due the Owner, or otherwise effect recovery thereof.

1.10 *Termination of Tenancy.*

The Owner shall be responsible for termination of tenancies, including evictions. However, conditions for payment of housing assistance payments for any resulting vacancies shall be as set forth in Section 1.6c.

1.11 *Reduction of Number of Contract Units for Failure To Lease to Eligible Families.*

a. *After First Year of Contract.* If at any time, beginning six months after the effective date of this Contract, the Owner fails for a continuous period of six months to have at least 80 percent of the Contract Units leased or available for leasing by Families, the Government may on 30 days notice reduce the number of Contract Units to not less than the number of units under lease or available for leasing by Families, plus 10 percent of such number if the number is 10 or more, rounded to the next highest number.

b. *At End of Initial and Each Renewal Term.* At the end of the initial term of the Contract and of each renewal term, the Government may, by notice to the Owner, reduce the number of Contract Units to not less than (1) the number of units under lease or available for leasing by Families at that time or (2) the average number of units so leased or available for leasing during the last year, whichever is the greater number, plus 10 percent of such number if the number is 10 or more, rounded to the next highest number.

c. *Restoration of Units.* The Government will agree to an amendment of the Contract to provide for subsequent restoration of any reduction made pursuant to paragraph a or b of this Section if the Government determines that the restoration is justified as a result of changes in demand and in the light of the Owner's record of compliance with his obligations under this Contract and if annual contributions contract authority is available; and the Government will take such steps authorized by section 8(c)(6) of the Act as may be necessary to carry out this assurance (see Section 1.5).

WARNING: 18 U.S.C. 1001 provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

Owner: _____
By: _____
(*Official title*)
Date: _____, 19__

United States of America, Secretary of Housing and Urban Development,

By: _____
(*Official title*)
Date: _____, 19__

(If the project is to be completed and accepted in stages, execution of the Contract with respect to the several stages appears on the following pages of this Contract.)

EXECUTION OF CONTRACT WITH RESPECT TO CONTRACT UNITS COMPLETED AND ACCEPTED IN STAGES

STAGE 1

This Contract is hereby executed with respect to the units described in Exhibit A-1.

Effective date. The effective date of this Contract is _____, 19__. (Insert date which shall be no earlier than the date of execution by the Government.)

Owner: _____
By: _____
(*Official title*)
Date: _____, 19__

United States of America, Secretary of Housing and Urban Development,

By: _____
(*Official title*)
Date: _____, 19__

EXECUTION OF CONTRACT WITH RESPECT TO CONTRACT UNITS COMPLETED AND ACCEPTED IN STAGES

STAGE 2

This Contract is hereby executed with respect to the units described in Exhibit A-2.

Effective date. The effective date of this Contract is _____, 19__. (Insert date which shall be no earlier than the date of execution by the Government.)

Owner: _____
By: _____
(*Official title*)
Date: _____, 19__

United States of America, Secretary of Housing and Urban Development,

By: _____
(*Official title*)
Date: _____, 19__

EXECUTION OF CONTRACT WITH RESPECT TO CONTRACT UNITS COMPLETED AND ACCEPTED IN STAGES

STAGE 3

This Contract is hereby executed with respect to the units described in Exhibit A-3.

Effective date. The effective date of this Contract is _____, 19__. (Insert date which shall be no earlier than the date of execution by the Government.)

Owner: _____
By: _____
(*Official title*)
Date: _____, 19__

United States of America, Secretary of Housing and Urban Development,

By: _____
(*Official title*)
Date: _____, 19__

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

HOUSING ASSISTANCE PAYMENTS CONTRACT

NEW CONSTRUCTION

PRIVATE-OWNER OR PHA-OWNER PROJECT

PART II

2.1 *Nondiscrimination in Housing.*

a. The Owner shall not in the selection of Families, in the provision of services, or in any other manner, discriminate against any person on the grounds of race, color, creed, religion, sex, or national origin. No person shall be automatically excluded from participation in, or be denied the benefits of,

monthly requests for housing assistance payments.

2.7 *Default by the Owner.*

a. A default by the Owner under this Contract shall result if:

(1) The Owner has violated or failed to comply with any provision of, or obligation under, this Contract or of any Lease; or

(2) The Owner has asserted or demonstrated an intention not to perform some or all of his obligations under this Contract or under any Lease.

b. Upon a determination by the Government that a default has occurred, the Government shall notify the Owner of (1) the nature of the default, (2) the actions required to be taken and the remedies to be applied on account of the default (including actions by the Owner to cure the default, and, where appropriate, abatement of housing assistance payments in whole or in part and recovery of overpayments), and (3) the time within which the Owner shall respond with a showing that he has taken all the actions required of him. If the Owner fails to respond or take action to the satisfaction of the Government, the Government shall have the right to terminate this Contract in whole or in part or to take other corrective action to achieve compliance.

c. The availability of any remedy under this Contract shall not preclude the exercise of any other remedy available under this Contract or under any provisions of law, nor shall any action taken in the exercise of any remedy be deemed a waiver of any other rights or remedies. Failure to exercise any right or remedy shall not constitute a waiver of the right to exercise that or any other right or remedy at any time.

2.8 *Disputes.*

a. Except as otherwise provided herein, any dispute concerning a question of fact arising under this Contract which is not disposed of by agreement between the Department of Housing and Urban Development field office and the Owner may be submitted by the Owner to the Secretary of Housing and Urban Development. The decision of the Secretary or duly authorized representative for the resolution of such disputes shall be final and conclusive, unless determined by a court of competent jurisdiction to have been fraudulant, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any proceeding under this Section, the Owner shall be afforded an opportunity to be heard and to offer evidence in support of his position.

b. This section does not preclude consideration of questions of law in connection with the decision rendered under paragraph a of this section; Provided, however, that nothing herein shall be construed as making final the decision of any administrative official, representative, or board, on a question of law.

2.9 *Interest of Members, Officers, or Employees of PHA, Members of Local Governing Body or Other Public Officials.*

No member, officer, or employee of the PHA, no member of the governing body of the locality (city and county) in which the project is situated, no member of the governing body of the locality in which the PHA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this Contract or in any proceeds or benefits arising therefrom.

2.10 *Interest of Member of or Delegate to Congress.*

No member of or delegate to the Congress of the United States of America or resident commissioner shall be admitted to any share or part of this Contract or to any benefits which may arise therefrom.

2.11 *Assignment, sale, or foreclosure.*

a. The Owner agrees that he has not made and will not make any sale, assignment, or conveyance or transfer in any other form, of this Contract or the project or any part thereof or any of his interest therein, without the prior consent of the Government; *Provided, however,* That in the case of an assignment as security for the purpose of obtaining financing of the project, the Government shall consent in writing if the terms of the financing have been approved by the Government. An assignment by the Owner to a limited partnership of which the Owner is the sole general partner shall not be considered an assignment herein.

b. The Owner agrees to notify the Government promptly of any proposed action covered by paragraph a of this section. The Owner further agrees to request the written consent of the Government in regard thereto, except in the case of an assignment as security as provided in paragraph a of this Section.

c. For the purpose of this section, a transfer of stock in the Owner in whole or in part, by a party holding ten percent or more of the stock of said Owner, or a transfer by more than one stockholder or the Owner of ten percent or more of the stock of said Owner, or any other similarly significant change in the ownership of such stock or in the relative distribution thereof, or with respect to the parties in control of the Owner or the degree thereof, by any other method or means, whether by increased capitalization, merger with another corporation, corporate or other amendments, issuance of new or additional stock or classification of stock or otherwise, shall be deemed an assignment, conveyance, or transfer with respect to this Contract or the project. With respect to this provision, the Owner and the party signing this Contract on behalf of said Owner, represent that they have the authority of all of the existing stockholders of the Owner to agree to this provision on behalf of said stockholders and to bind them with respect thereto.

d. In the event of foreclosure, including foreclosure by the Government, and in the event of assignment or sale agreed to by the Government or made to the Government, housing assistance payments shall continue in accordance with the terms of the Contract.

(If the project is subject to 24 CFR 880.125, paragraph d above shall be stricken and the following shall be used instead:

d. In the event of foreclosure, or assignment or sale to the financing agency in lieu of foreclosure, or in the event of assignment or sale agreed to by the financing agency and approved by the Government (which approval shall not be unreasonably delayed or withheld), housing assistance payments shall continue in accordance with the terms of the Contract.)

APPENDIX III—U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM MASTER SECTION 8 ANNUAL CONTRIBUTIONS CONTRACT #_____

This Annual Contributions Contract (ACC) is entered into on the ____ day of _____, 19__, (the date of execution by the Government) by and between the United States of America (herein called the "Government"), pursuant to the United States Housing Act of 1937, as amended (42 U.S.C. 1437, et seq.), herein called the "Act", and the Department of Housing and Urban Development Act (42 U.S.C. 3531), and _____ (herein called the "PHA"), which is a "public housing agency" as defined in the Act. In consideration of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

0.1 *Project or Projects.* The PHA is undertaking to provide Decent, Safe, and Sanitary housing for Families (as defined in Section 2.1) pursuant to section 8 of the Act by means of Housing Assistance Payments Contracts ("Contracts") with Owners (as defined in Section 2.1). Such undertaking may involve an agreement for the use of housing to be constructed ("New Construction"), an agreement for the use of existing housing to be substantially rehabilitated ("Substantial Rehabilitation"), or the use of existing housing without substantial rehabilitation ("Existing Housing"). In each instance, the numbers and sizes of dwelling units with respect to which a certain maximum Annual Contributions commitment is made shall constitute a Project hereunder and shall be identified by a stated Project number.

0.2 *Part I and Part II of this Annual Contributions Contract.*

(a) Certain provisions of the ACC, principally those which are specifically applicable to a designated Project, are contained in Part I. Separate forms of Part I are used for different types of Projects (i.e., New Construction, Substantial Rehabilitation, and Existing Housing). A separate Part I, on the applicable form thereof, has been executed with respect to each Project hereunder, and each such Part I, so executed, constitutes a part of this ACC.

(b) The remaining provisions of this ACC, which are applicable to all Projects hereunder, are contained in Part II, which, although not separately executed, constitutes a part of this ACC.

0.3. *Fiscal Year.* Except for the first Fiscal Year of each Project, there shall be one Fiscal Year for all Projects hereunder. Such established Fiscal Year shall be the 12-month period ending _____ of each calendar year. The first Fiscal Year for each Project shall be as provided in the Part I applicable to such Project.

0.4. *Schedule of Projects.* Attached to this Master Section 8 ACC, as Attachment A, is a list identifying each ACC Part I and ACC Part I amendment by project number, date, and ACC List number and date.

PHA: _____
By: _____
Date: _____

THE GOVERNMENT

By: _____
Date: _____

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM ANNUAL CONTRIBUTIONS CONTRACT

PART I—NEW CONSTRUCTION PROJECT NO. _____

Effective Date _____
(Date of execution by the Government of this ACC Part I)
ACC List Number and Date _____

1.1. *The Project.* The PHA proposes to enter into a Housing Assistance Payments Contract ("Contract") with respect to newly constructed dwelling units pursuant to an Agreement to Enter into Housing Assistance Payments Contract ("Agreement") executed prior to the commencement of construction. The numbers and sizes of units will be as follows:

Size of unit	*Number of units*

The PHA shall enter into an Agreement and Contract in accordance with the numbers and sizes of units specified above. The PHA shall not enter into any Agreement or Contract or take any other action which will result in a claim for an Annual Contribution in respect to the Project in excess of

the Housing Assistance Payments Program because of membership in a class such as unmarried mothers, recipients of public assistance, etc.

b. The Owner shall comply with all requirements imposed by Title VIII of the Civil Rights Act of 1968, and any rules and regulations pursuant thereto.

c. The Owner shall comply with all requirements imposed by Title VI of the Civil Rights Act of 1964, Pub. L. 88-352, 78 Stat. 241; the regulations of the Department of Housing and Urban Development issued thereunder, 24 CFR, Subtitle A, Part 1, Section 1.1, et seq.; the requirements of said Department pursuant to said regulations; and Executive Order 11063 to the end that, in accordance with that Act, the regulations and requirements of said Department thereunder, and said Executive Order, no person in the United States shall on the grounds of race, color, creed, religion or national origin, be excluded from participation in, or be denied the benefits of, the Housing Assistance Payments Program, or be otherwise subjected to discrimination. This provision is included pursuant to the regulations of the Department of Housing and Urban Development, 24 CFR, Subtitle A, Part 1, Section 1.1, et seq.; issued under Title VI of the said Civil Rights Act of 1964, and the requirements of said Department pursuant to said regulations; and the obligation of the Owner to comply therewith inures to the benefit of the Government and the said Department, either of which shall be entitled to invoke any remedies available by law to redress any breach thereof or to compel compliance therewith by the Owner.

2.2 *Training, Employment, and Contracting Opportunities for Businesses and Lower-Income Persons.*[3]

a. The project assisted under this Contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

b. Notwithstanding any other provision of this Contract, the Owner shall carry out the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135 (published in 38 FR 29220, October 23, 1973), and all applicable rules and orders of the Secretary issued thereunder prior to the execution of this Contract. The requirements of said regulations include, but are not limited to, development and implementation of an affirmative action plan for utilizing business concerns located within, or owned in substantial part by persons residing in, the area of the project; the making of a good faith effort, as defined by the regulations, to provide training, employment, and business opportunities required by section 3; and incorporation of the "section 3 clause" specified by § 135.20 (b) of the regulations and paragraph d of this section in all contracts for work in connection with the project. The Owner certifies and agrees that he is under no contractual or other disability which would prevent him from complying with these requirements.

c. Compliance with the provisions of section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Secretary issued thereunder prior to approval by the Government of the application for this Contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the Owner, his successors and assigns. Failure to fulfill these requirements shall subject the Owner, his contractors and subcontractors, his successors, and assigns to the sanction specified by this Contract, and to such sanctions as are specified by 24 CFR 135.135.

d. The Owner shall incorporate or cause to be incorporated into any contract or subcontract for work pursuant to this Contract in excess of $50,000 cost, the following clause:

EMPLOYMENT OF PROJECT AREA RESIDENTS AND CONTRACTORS

A. The work to be performed under this Contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

B. The parties to this Contract will comply with the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Contract. The parties to this Contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

C. The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

D. The contractor will include this section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontract is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135, and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

E. Compliance with the provisions of section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the Contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR 135.135.

e. The Owner agrees that he will be bound by the above Employment of Project Area Residents and Contractors clause with respect to his own employment practices when he participates in federally assisted work.

2.3 *Cooperation in Equal Opportunity Compliance Reviews.*

The Owner shall cooperate with the Government in the conducting of compliance reviews and complaint investigations pursuant to all applicable civil rights statutes, Executive Orders, and rules and regulations pursuant thereto.

2.4 *Flood Insurance.*

If the project is located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards and if the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, the Owner agrees that the project will be covered, during its anticipated economic or useful life, by flood insurance in an amount at least equal to its development or project cost (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less.

2.5 *Clean Air Act and Federal Water Pollution Control Act.*[4]

In compliance with regulations issued by the Environmental Protection Agency ("EPA"), 40 CFR Part 15, 39 FR 11099, pursuant to the Clean Air Act, as amended ("Air Act"), 42 U.S.C. 1857, et seq., the Federal Water Pollution Control Act, as amended ("Water Act"), 33 U.S.C. 1251, et seq., and Executive Order 11738, the Owner agrees that:

a. Any facility to be utilized in the performance of this Contract or any subcontract shall not be a facility listed on the EPA List of Violating Facilities pursuant to section 15.20 of said regulations;

b. He will promptly notify the Department of Housing and Urban Development field office director of the receipt of any communication from the EPA indicating that a facility to be utilized for the Contract is under consideration to be listed on the EPA List of Violating Facilities;

c. He will comply with all the requirements of section 114 of the Air Act and section 308 of the Water Act relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in section 114 and section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder; and

d. He will include or cause to be included the provisions of this Section in every nonexempt subcontract, and that he will take such action as the Government may direct as a means of enforcing such provisions.

2.6 *Reports and Access to Premises and Records.*

a. The Owner shall furnish such information and reports pertinent to the Contract as reasonably may be required from time to time by the Government.

b. The Owner shall permit the Government or any of its duly authorized representatives to have access to the premises and, for the purpose of audit and examination, to have access to any books, documents, papers and records of the Owner that are pertinent to compliance with this Contract, including the verification of information pertinent to the

[3] Strike this Section if the Contract Rents on the effective date of this Contract, over the maximum term of this Contract, are $500,000 or less.

[4] Strike this section if the Contract Rents on the effective date of this Contract, over the maximum total term of this Contract, are $100,000 or less.

the total amount or any sublimitation stated in Section 1.4(a).

1.2. *Authorization of Action's by PHA.* In order to carry out the Project, the PHA is authorized to (a) enter into an Agreement, (b) enter into a Contract, (c) make housing assistance payments on behalf of Families, and (d) take all other necessary actions, all in accordance with the forms, conditions and requirements prescribed or approved by the Government: *Provided, however*, That neither the PHA nor the Government shall assume any obligation beyond that provided in the Government-approved Agreement and Contract.

1.3 *Term of Contract and ACC.*

(a) *Term of Contract.* [Alternative provisions—incorporate alternative 1 or 2, as applicable.]

Alternative 1—General. The total Contract term for any unit, including all renewals, shall not exceed _____ years. (Insert 20 unless the project is owned by, or financed by a loan or loan guarantee from, a State or local agency. In the latter case, insert number, not to exceed 40, which will provide a term ending with the scheduled maturity date for the last payment under such financing.) If the Project is completed in stages, the total Contract term for the units in all stages, beginning with the effective date of the Contract with respect to the first stage, shall not exceed the total Contract term specified in the first sentence of this paragraph (a), plus 2 years.

Alternative 2—For mobile homes projects. The total Contract term for any mobile home unit, including all renewals, shall not exceed _____ years. (Insert number as authorized by the Government pursuant to 24 *CFR* 880.109, but in no event more than 20.) If the Project is completed in stages, the total Contract term for the mobile home units in all stages, beginning with the effective date of the Contract with respect to the first stage, shall not exceed the total Contract term specified in the first sentence of this paragraph (a), plus 2 years. For purposes of this paragraph (a), the term "mobile home" means the original mobile home and any replacement(s), combined.

(b) *Term of ACC.* This ACC shall remain in effect so long as the Contract is in effect but in no event shall the term of the ACC exceed _____ years from the beginning of the first Fiscal Year. (Insert number specified in the first sentence of paragraph (a) of this section, plus two years.)

1.4. *Annual Contributions.*

(a) Notwithstanding any other provisions of this ACC (other than paragraph (c) of this Section) or any provisions of any other contract between the Government and the PHA, the Government shall not be obligated to make any Annual Contribution or any other payment with respect to any Fiscal Year in excess of:

(1) $_____ per year for housing assistance payments under the Contract; or

(2) $_____ per year for other Project Expenditures; or

(3) A total of $_____ per year for all Project Expenditures in respect to the Project (Maximum ACC Commitment);

Provided, however, That these amounts shall be reduced commensurately with any reduction in the number of Contract Units or in the Contract Rents under the Contract or pursuant to any other provision of this ACC or the Contract.

(b) Subject to the maximum dollar limitations in paragraph (a) of this section, the Government shall pay for each Fiscal Year an Annual Contribution to the PHA in respect to the Project in an amount equal to the sum of the following (subject to reduction by the amount of any Project Receipts other than Annual Contributions, which Receipts shall be available for Project Expenditures):

(1) The amount of housing assistance payments payable during each Fiscal Year (see Section 1.5) by the PHA pursuant to the Contract, as authorized in Section 1.2.

(2) The allowance, in the amount approved by the Government, for preliminary costs of administration.

(3) The allowance, in the amount approved by the Government, for the regular costs of administration, including costs of Government-required audits of Owners and the PHA.

(c) In order to assure that housing assistance payments will be increased on a timely basis to cover increases in Contract Rents or decreases in Family Incomes:

(1) A Project Account shall be established and maintained, in an amount as determined by the Government consistent with its responsibilities under section 8(c)(6) of the Act, out of amounts by which the Maximum ACC Commitment per year exceeds amounts paid under the ACC for any year. This account shall be established and maintained by the Government as a specifically identified and segregated account. To the extent funds are available in said account, the maximum Annual Contribution otherwise payable for any Fiscal Year may be increased by such amount, if any, as may be required for increases reflected in the estimate of required Annual Contribution applicable to such Fiscal Year as approved by the Government in accordance with Section 2.11. Any amount remaining in said account after payment of the last Annual Contribution with respect to the Project shall be applied by the Government in accordance with law.

(2) Whenever the Government approved estimate of the required Annual Contribution, exceeds the Maximum ACC Commitment then in effect, and would cause the amount in the Project Account to be less than an amount equal to 40 percent of such Maximum ACC Commitment, the Government shall, within a reasonable period of time, take such additional steps authorized by section 8(c)(6) of the Act as may be necessary to carry out this assurance, including (as provided in that section of the Act) "the reservation of annual contributions authority for the purpose of amending housing assistance contracts or the allocation of a portion of new authorizations for the purpose of amending housing assistance contracts."

(d) The Government will make periodic payments on account of each Annual Contribution upon requisition therefor by the PHA in the form prescribed by the Government. Each requisition shall include certifications by the PHA that housing assistance payments have been or will be made only:

(1) In accordance with the provisions of the Contract as such provisions apply respectively to (i) units under lease by Families and (ii) units not under lease by Families; and

(2) With respect to units which the PHA has inspected or caused to be inspected, pursuant to Section 2.4 of Part II of this ACC, within one year prior to the making of such housing assistance payments.

(e) Following the end of each Fiscal Year, the PHA shall promptly pay to the Government, unless other disposition is approved by the Government, the amount, if any, by which the total amount of the periodic payments during the Fiscal Year exceeds the total amount of the Annual Contribution payable for such Fiscal Year in accordance with this Section.

1.5 *Fiscal Year.* The Fiscal Year for the Project shall be the Fiscal Year established by Section 0.3 of this ACC: *Provided, however*, That the first Fiscal Year for the Project shall be the period beginning with the effective date of the Contract and ending on the last day of said established Fiscal Year which is not less than 12 months after such effective date. If the first Fiscal Year exceeds 12 months, the Maximum ACC Commitment may be adjusted by the addition of the pro rata amount applicable to the period of operation in excess of 12 months.

1.6. *Periodic Adjustment of Contract Rents.* The Contract may provide for periodic adjustments in the Contract Rents chargeable by the Owner and commensurate increases in amounts of housing assistance payments up to the maximum amount authorized for housing assistance payments under Section 1.4(a) of this ACC.

1.7 *Affirmative Fair Housing Marketing Regulation.* The PHA shall require the Owner to comply with the Affirmative Fair Housing Marketing Regulation (subject to any exceptions therein) including the submission for Government approval of an Affirmative Fair Housing Marketing Plan and compliance with such approved Plan, as if the Owner were expressly subject to said Regulation.

1.8 *Expeditious Carrying Out of Project.* The PHA shall proceed expeditiously with the Project. If the PHA fails to proceed expeditiously, and no Agreement with the Owner has yet been entered into, the Government, by notice to the PHA, may terminate or reduce its obligation hereunder with respect to the Project. If an Agreement has been entered into, and the PHA or the Owner is not proceeding expeditiously with the Project, the Government will take appropriate action, including the Governmental action provided for in the Agreement.

1.9 *Responsibility for Administration of Contract.* The PHA is primarily responsible for administration of the Contract, subject to review and audit by the Government.

PHA: _____

By: _____

Date: _____

The Government,

By: _____

Date: _____

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

TERMS AND CONDITIONS CONSTITUTING PART II OF AN ANNUAL CONTRIBUTIONS CONTRACT BETWEEN PUBLIC HOUSING AGENCY AND THE UNITED STATES OF AMERICA

2.1. *Definitions.*

(a) "Families" means lower-income Families (including "Very Low-Income Families") and includes Families consisting of a single person in the case of Elderly Families and Displaced Families and includes the remaining member of a tenant family.

(b) "Elderly Families" means Families whose heads (or their spouses), or whose sole members, are persons who are at least 62 years of age or are under a disability as defined in section 223 of the Social Security Act or in section 102(5) of the Developmental Disabilities Services and Facilities Construction Amendments of 1970, or are handicapped. The term Elderly Families includes two or more elderly, disabled, or handicapped individuals living together, or one or more such individuals living together with another person who is determined under regulations of the Secretary of Housing and Urban Development ("Secretary") to be a person essential to their care or well being.

(c) "Displaced Families" means Families displaced by governmental action, or Families whose dwellings have been extensively damaged or destroyed as a result of a disaster

declared or otherwise formally recognized pursuant to Federal disaster relief laws.

(d) "Lower-Income Families" means Families whose Incomes do not exceed 80 percent of the median Income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish Income limits higher or lower than 80 percent of the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low family Incomes, or other factors.

(e) "Very Low-Income Families" means Families whose Incomes do not exceed 50 percent of the median Income for the area, as determined by the Secretary with adjustments for smaller and larger families.

(f) "Income" means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary.

(g) "Owner" means the person or entity, including a cooperative, with which the Agreement and Contract are entered into.

(h) "Rent" or "rental" means, with respect to members of a cooperative, the charges under the occupancy agreements between such members and the cooperative.

(i) "Project Receipts" with respect to each Project means the Annual Contributions payable hereunder and all other receipts, if any, accruing to the PHA from, out of, or in connection with such Project.

(j) "Project Expenditures" with respect to each Project means all costs allowable under Section 1.4(b), Part I of this ACC, with respect to such Project.

(k) "Substantial Default" means the occurrence of any of the events listed in Section 2.16.

2.2 *Lower-Income Housing Use; Compliance with Act and Regulations.*

The PHA shall use the Annual Contribution solely for the purpose of providing Decent, Safe, and Sanitary dwellings for Families in compliance with all applicable provisions of the Act and all regulations issued pursuant thereto.

2.3 *Eligibility and Amount of Housing Assistance Payments.*

(a) The PHA shall comply with the Income limits established by the Government, and with the requirements of the Government pursuant to section 8(c)(7) of the Act that at least 30 percent of the Families assisted in all its Projects under its Master Section 8 ACC shall be Very Low-Income Families.

(b) The PHA shall comply or assure compliance with the schedules and criteria established by the Government with respect to the amounts of housing assistance payments made on behalf of Families.

(c) The PHA shall make or cause to be made periodic reexaminations of the Income, composition, and extent of exceptional medical or other unusual expenses of Families for whom housing assistance payments are being made, for the purpose of confirming or adjusting, in accordance with the applicable schedules established by the Government, the amount of rent payable by the Family and the amount of housing assistance payment.

(d) The PHA shall determine, as part of its annual inspection and at such other times as it deems appropriate, whether an adjustment is required in the Allowance for Utilities and Other Services applicable to the dwelling unit on ground of changes of general applicability. If the PHA determines that an adjustment should be made, the PHA shall prescribe the amount of the adjustment and notify the Owner accordingly, and the PHA shall cause the Owner to make a corresponding adjustment in the amount of rent to be paid by the affected Family and the amount of housing assistance payment.

(e) Prior to the approval of eligibility of a Family by the PHA or the Owner, as the case may be, and thereafter on the date established for each reexamination of the status of such Family, the PHA or the Owner, as the case may be, shall review or cause to be reviewed a written application, signed by a responsible member of such Family, which application shall set forth all data and information necessary for a determination of the amount, if any, of housing assistance payment which can be made with respect to the Family.

2.4 *Inspections.*

(a) The PHA shall require, as a condition for the making of housing assistance payments, that the Owner maintain the assisted dwelling units and related facilities in Decent, Safe, and Sanitary condition.

(b) The PHA shall inspect or cause to be inspected dwelling units and related facilities prior to commencement of occupancy by Families, and thereafter at least annually, adequate to assure that Decent, Safe, and Sanitary housing accommodations are being provided and that the agreed-to services are being furnished.

2.5 *Nondiscrimination in Housing.*

(a) The PHA shall comply with all requirements imposed by Title VI of the Civil Rights Act of 1964, Pub. L. 88-352, 78 Stat. 241; the regulations of the Department of Housing and Urban Development issued thereunder, 24 CFR, Subtitle A, Part 1, Section 1.1, et seq.; the requirements of said Department pursuant to said regulations; and Executive Order 11063 to the end that, in accordance with that Act and the regulations and requirements of said Department thereunder, and said Executive Order, no person in the United States shall, on the ground of race, color, creed, religion, or national origin, be excluded from participation in, or be denied the benefits of, the Housing Assistance Payments Program or be otherwise subjected to discrimination. The PHA shall, by contractual requirement, covenant, or other binding commitment, assure the same compliance on the part of any subgrantee, contractor, subcontractor, transferee, successor in interest, or other participant in the program or activity, such commitment to include the following clause:

This provision is included pursuant to the regulations of the Department of Housing and Urban Development, 24 CFR, Subtitle A, Part 1, Section 1.1, et seq.; issued under Title VI of the said Civil Rights Act of 1964, and the requirements of said Department pursuant to said regulations; and the obligation of the (contractor or other) to comply therewith inures to the benefit of the United States, the said Department and the PHA, any of which shall be entitled to invoke any remedies available by law to redress any breach thereof or to compel compliance therewith by the (contractor or other).

(b) The PHA shall incorporate or cause to be incorporated into all Housing Assistance Payments Contracts a provision requiring compliance with all requirements imposed by Title VIII of the Civil Rights Act of 1968, and any rules and regulations issued pursuant thereto.

(c) The PHA shall not, on account of creed or sex, discriminate in the sale, leasing, rental, or other disposition of housing or related facilities (including land) included in any Project or in the use or occupancy thereof, nor deny to any Family the opportunity to apply for such housing, nor deny to any eligible applicant the opportunity to lease or rent any dwelling in any such housing suitable to its needs. No person shall automatically be excluded from participation in or be denied the benefits of the Housing Assistance Payments Program because of membership in a class such as unmarried mothers, recipients of public assistance, etc.

2.6 *Equal Employment Opportunity.*

(a) The PHA shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, or national origin. The PHA shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, creed, religion, sex, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(b)(1) The PHA shall incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR, Chapter 60, which is to be performed pursuant to this contract, the following Equal Opportunity clause:

EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this contract, the contractor agrees as follows:

(A) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, creed, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the PHA setting forth the provisions of this Equal Opportunity clause.

(B) The contractor will in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, creed, sex, or national origin.

(C) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the PHA advising the said labor union or workers' representative of the contractor's commitments under this Section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(D) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(E) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Government and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(F) In the event of the contractor's noncompliance with the Equal Opportunity clause of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or sus-

pended in whole or in part, and the contractor may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor or as otherwise provided by law.

(G) The contractor will include the portion of the sentence immediately preceeding paragraph (A) and the provisions of paragraphs (A) through (G) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor or purchase order as the Government may direct as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Government, the contractor may request the United States to enter into such litigation to protect the interest of the United States."

(2) The PHA agrees that it will assist and cooperate actively with the Government and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the Equal Opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the Government and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the Government in the discharge of the Government's primary responsibility for securing compliance.

(3) The PHA further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order No. 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and Federally assisted construction conracts pursuant to the Executive Order and and will carry out such sanctions and penalties for violation of the Equal Opportunity clause as may be imposed upon contractors and subcontractors by the Government or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order.

2.7. *Training, Employment, and Contracting Opportunities for Businesses and Lower Income Persons.*

(a) The project assisted under this ACC is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the Project area and contracts for work in connection with the Project be awarded to business concerns which are located in or owned in substantial part by persons residing in the contracts pursuant to the Executive Order

(b) Notwithstanding any other provision of this ACC, the PHA shall carry out the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary set forth in 24 CFR Part 135 (published in 38 FR 29220, October 23, 1973), and all applicable rules and orders of the Secretary issued thereunder prior to the execution of this ACC. The requirements of said regulations include but are not limited to development and implementation of an affirmative action plan for utilizing business concerns located within or owned in substantial part by persons residing in the area of the Project; the making of a good faith effort, as defined by the regulations, to provide training, employment, and business opportunities required by section 3; and incorporation of the "section 3 clause" specified by § 135.20(b) of the regulations in all contracts for work in connection with the Project. The PHA certifies and agrees that it is under no contractual or other disability which would prevent it from complying with these requirements.

(c) Compliance with the provisions of section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Secretary issued thereunder prior to approval by the Government of the application for this ACC shall be a condition of the Federal financial assistance provided to the Project, binding upon the PHA, its successors and assigns. Failure to fulfill these requirements shall subject the PHA, its contractors and subcontractors, its successors, and assigns to the sanction specified by this ACC and to such sanctions as are specified by 24 CFR 135.135.

(d) The PHA shall incorporate or cause to be incorporated into any contract pursuant to this contract such clause or clauses as are required by the Government for compliance with its regulations issued pursuant to the Housing and Urban Development Act, as amended. The PHA shall cooperate with the Government in the conducting of compliance reviews pursuant to said Acts and Regulations.

2.8. *Cooperation In Equal Opportunity Compliance Reviews.* The PHA shall cooperate with the Government in the conducting of compliance reviews and complaint investigations pursuant to applicable civil rights statutes, Executive Orders, and rules and regulations pursuant thereto.

2.9 *Clean Air Act and Federal Water Pollution Control Act.* The PHA shall incorporate or cause to be incorporated, into any contract for construction or substantial rehabilitation, such clause or clauses as are required by the Government for compliance with the regulations issued by the Environmental Protection Agency pursuant to the Clean Air Act, as amended, the Federal Water Pollution Control Act, as amended, and Executive Order 11738. The PHA shall cooperate with the Government in the conducting of compliance reviews pursuant to said Acts and Regulations.

2.10 *Labor Standards.* The PHA shall incorporate or cause to be incorporated into any contract for construction or substantial rehabilitation of nine or more dwelling units, such clause or clauses as are required by the Government for compliance with its regulations issued pursuant to the Copeland Act, the Davis-Bacon Act, and the Contract Work Hours and Safety Standards Act. The PHA shall cooperate with the Government in the conducting of compliance reviews pursuant to said Acts and Regulations.

2.11 *Estimates of Required Annual Contribution.* The PHA shall from time to time submit to the Government estimates of required annual contribution at such times and in such form as the Government may require. All estimates and any revisions thereof submitted under this Section shall be subject to Government approval.

2.12 *Insurance and Fidelity Bond Coverage.* For purposes of protection against hazards arising out of or in connection with the administrative activities of the PHA in carrying out the Project, the PHA shall carry adequate (a) comprehensive general liability insurance, (b) workmen's compensation coverage (statutory or voluntary), (c) automobile liability insurance against property damage and bodily injury (owned and nonowned), and (d) fidelity bond coverage of its officers, agents, or employees handling cash or authorized to sign checks or certify vouchers.

2.13 *Books of Account and Records; Reports.*

(a) The PHA shall maintain complete and accurate books of account and records, as may be prescribed from time to time by the Government, in connection with the Projects, including records which permit a speedy and effective audit, and will among other things fully disclose the amount and the disposition by the PHA of the Annual Contributions and other Project Receipts, if any.

(b) The books of account and records of the PHA shall be maintained for each Project as separate and distinct from all other Projects and undertakings of the PHA, except as authorized or approved by the Government.

(c) The PHA shall furnish the Government such financial, operating, and statistical reports, records, statements, and documents at such times, in such form, and accompanied by such supporting data, all as may reasonably be required from time to time by the Government.

(d) The Government and the Comptroller General of the United States, or his duly authorized representatives, shall have full and free access to the Projects and to all the books, documents, papers, and records of the PHA that are pertinent to its operations with respect to financial assistance under the Act, including the right to audit, and to make excerpts and transcripts from such books and records.

(e) The PHA shall incorporate or cause to be incorporated in all Contracts the following clauses:

PHA AND GOVERNMENT ACCESS TO PREMISES AND OWNER'S RECORDS

(1) The Owner shall furnish such information and reports pertinent to the Contract as reasonably may be required from time to time by the PHA and the Government.

(2) The Owner shall permit the PHA or the Government or any of their duly authorized representatives, to have access to the premises and, for the purpose of audit and examination, to have access to any books, documents, papers and records of the Owner that are pertinent to compliance with this Contract, including the verification of information pertinent to the monthly requests to the PHA for housing assistance payments.

(f) The PHA shall be responsible for engaging and paying the auditor for the making of audits as required by the Government, but the PHA shall be compensated under this ACC for the cost of such audits.

2.14. *General Depositary Agreement and General Fund.*

(a) The PHA shall maintain one or more agreements, which are herein collectively called the "General Depositary Agreement," in the form prescribed by the Government, with one or more banks (each of which shall be, and continue to be, a member of the Federal Deposit Insurance Corporation) selected as depositary by the PHA. Immediately upon the execution of any General Depositary Agreement, the PHA shall furnish to the Government such executed or conformed copies thereof as the Government may require. No such General Depositary Agreement shall be terminated except after 30 days notice to the Government.

(b) All monies received by or held for account of the PHA in connection with the Projects shall constitute the General Fund.

(c) The PHA shall, except as otherwise provided in this ACC, deposit promptly with such bank or banks, under the terms of the General Depositary Agreement, all monies constituting the General Fund.

(d) The PHA may withdraw monies from the General Fund only for (1) the payment of Project Expenditures, and (2) other purposes specifically approved by the Government. No withdrawals shall be made except in accordance with a voucher or vouchers then on file in the office of the PHA stating in proper detail the purpose for which such withdrawal is made.

(e) If the PHA (1) in the determination of the Government, is in Substantial Default, or (2) makes or has made any fraudulent or willful misrepresentation of any material fact in any of the documents or data submitted to the Government pursuant to this ACC or in any document or data submitted to the Government as a basis for this ACC or as an inducement to the Government to enter into this ACC, the Government shall have the right to require any bank or other depositary which holds any monies of the General Fund, to refuse to permit any withdrawals of such monies: *Provided, however,* That upon the curing of such Default the Government shall promptly rescind such requirement.

2.15 *Pooling of Funds under Special Conditions and Revolving Fund.*

(a) The PHA may deposit under the terms of the General Depositary Agreement monies received or held by the PHA in connection with any other housing project developed or operated by the PHA pursuant to the provisions of any contract for annual contributions, administration, or lease between the PHA and the Government.

(b) The PHA may also deposit under the terms of the General Depositary Agreement amounts necessary for current expenditures of any other project or enterprise of the PHA, including any project or enterprise in which the Government has no financial interest; *Provided, however,* That such deposits shall be lump-sum transfers from the depositaries of such other projects or enterprises, and shall in no event be deposits of the direct revenues or receipts of such other projects or enterprises.

(c) If the PHA operates other projects or enterprises in which the Government has no financial interest, it may, from time to time, withdraw such amounts as the Government may approve from monies on deposit under the General Depositary Agreement for deposit in and disbursement from a revolving fund provided for the payment of items chargeable in part to the Projects and in part to other projects or enterprises of the PHA: *Provided, however,* That all deposits in such revolving fund shall be lump-sum transfers from the depositaries of the related projects or enterprises and shall in no event be deposits of the direct revenues or receipts.

(d) The PHA may establish petty cash or change funds in reasonable amounts, from monies on deposit under the General Depositary Agreement.

(e) In no event shall the PHA withdraw from any of the funds or accounts authorized under this Section 2.15 amounts for the Projects or for any other project or enterprise in excess of the amount then on deposit in respect thereto.

2.16 *Defaults by PHA and/or Owner.*

(a) *Rights of Owner if PHA Defaults under Agreement or Contract.* (The provisions of this paragraph (a) shall not apply to any Existing Housing Project.)

(1) In the event of failure of the PHA to comply with the Agreement with the Owner, or if such Agreement is held to be void, voidable or ultra vires, or if the power or right of the PHA to enter into such Agreement is drawn into question in any legal proceeding, or if the PHA asserts or claims that such Agreement is not binding upon the PHA for any such reason, the Government may, after notice to the PHA giving it a reasonable opportunity to take corrective action, determine that the occurrence of any such event constitutes a Substantial Default hereunder. Where the Government so determines, it may assume the PHA's rights and obligations under such Agreement and carry out the obligations of the PHA under the Agreement, including the obligation to enter into the Contract.

(2) In the event of failure of the PHA to comply with the Contract with the Owner, or if such Contract is held to be void, voidable or ultra vires, or if the power or right of the PHA to enter into such Contract is drawn into question in any legal proceeding, or if the PHA asserts or claims that such Contract is not binding upon the PHA for any such reason, the Government may, after notice to the PHA giving it a reasonable opportunity to take corrective action, determine that the occurrence of any such event constitutes a Substantial Default hereunder. Where the Government so determines, it may assume the PHA's rights and obligations under such Contract, and the Government shall, for the duration of such Contract, continue to pay Annual Contributions for the purpose of making housing assistance payments with respect to dwelling units under such Contract, shall perform the obligations and enforce the rights of the PHA, and shall exercise such other powers as the Government may have to cure the Default.

(3) All rights and obligations of the PHA assumed by the Government pursuant to this Section 2.16(a) will be returned as constituted at the time of such return (i) when the Government is satisfied that all defaults have been cured and that the Project will thereafter be administered in accordance with all applicable requirements, or (ii) when the Housing Assistance Payments Contract is at an end, whichever occurs sooner.

(4) The provisions of this Section 2.16(a) are made with, and for the benefit of, the Owner or his assignees who will have been specifically approved by the Government prior to such assignment. If the Owner and the assignees are not in default, they may, in order to enforce the performance of these provisions, (i) demand that the Government, after notice to the PHA giving it a reasonable opportunity to take corrective action, make a determination whether a Substantial Default exists under paragraph (a)(1) or (a)(2) of this section, (ii) if the Government determines that a Substantial Default exists, demand that the Government take the actions authorized in paragraph (a)(1) or (a)(2) to carry out the obligations of the PHA to the Owner, and (iii) proceed against the Government by suit at law or in equity.

(5) The provisions of paragraphs (a) (1), (3) and (4) of this Section shall be included in the Agreement and the provisions of paragraphs (a) (2), (3) and (4) of this section shall be included in the Contract.

(b) *Rights of Government if PHA Defaults Under ACC, Agreement, or Contract.*

(1) If the PHA defaults in the observance or performance of the provisions of Section 2.4; fails to comply with its obligations under any duly issued Certificate of Family Participation in accordance with its terms; fails to comply with the requirements of Sections 2.5, 2.6, 2.7 or 2.8; defaults in the performance or observance of any other term, covenant, or condition of this ACC or of any term, covenant, or condition of any Contract or Agreement; fails, in the event of any default by the Owner, to enforce its rights under the Agreement or Contract by way of action to achieve compliance to the satisfaction of the Government or to terminate the Agreement or Contract in whole or in part, as directed by the Government; or fails to comply with the applicable provisions of the Act and all regulations issued pursuant thereto; the Government may, after notice to the PHA giving it a reasonable opportunity to take corrective action, determine that the occurrence of any such event constitutes a Substantial Default hereunder as to the Project. Upon the occurrence of a Substantial Default with respect to any Project, the PHA shall, if the Government so requires, assign to the Government all of its rights and interests under the Agreement or Contract, including any funds, and the Government shall continue to pay Annual Contributions with respect to dwelling units covered by Housing Assistance Payments Contracts in accordance with the terms of this ACC and of such Contracts until reassigned to the PHA.

(2) All rights and obligations of the PHA assumed by the Government pursuant to this Section 2.16(b) will be returned as constituted at the time of such return (i) when the Government is satisfied that all defaults have been cured and that the Project will thereafter be administered in accordance with all applicable requirements, or (ii) when the Housing Assistance Payments Contract is at an end, whichever occurs sooner.

(c) *Rights of PHA and Government if Owner Defaults under Contract. (New Construction and Substantial Rehabilitation Projects.* For New Construction and Substantial Rehabilitation projects, the Contract shall contain the following provisions:

a. A default by the Owner under this Contract shall result if:

(1) The Owner has violated or failed to comply with any provisions of, or obligation under, this Contract or of any Lease; or

(2) The Owner has asserted or demonstrated an intention not to perform some or all of his obligations under this Contract or under any Lease.

b. Upon a determination by the PHA that a default has occurred, the PHA shall notify the Owner, with a copy to the Government, of (1) the nature of the default, (2) the actions required to be taken and the remedies to be applied on account of the default (including actions by the Owner to cure the default, and, where appropriate, abatement of housing assistance payments in whole or in part and recovery of overpayments), and (3) the time within which the Owner shall respond with a showing that he has taken all the actions required of him. If the Owner fails to respond or take action to the satisfaction of the PHA and the Government, the PHA shall have the right to terminate this Contract in whole or in part or to take other corrective action to achieve compliance, in its discretion or as directed by the Government.

c. (The provisions of this paragraph c shall apply only if the PHA is the lender.) Notwithstanding any other provisions of this Contract, in the event the Government determines that the Owner is in default of his obligations under the Contract, the Government shall have the right, after notice to the Owner and the PHA giving them a reasonable opportunity to take corrective action, to abate or terminate housing assistance payments and recover overpayments in accordance with the terms of the Contract. In the event the Government takes any action under this Section, the Owner and the PHA hereby expressly agree to recognize the rights of the Government to the same extent as if the action were taken by the PHA. The Government shall not have the right to terminate the Contract except by proceeding in accordance with Section 2.16(b) of the ACC.

(d) *Rights of PHA if Owner Defaults under Contract (Existing Housing Projects).* For Existing Housing projects, the Contract shall contain the following provisions:

a. A default by the Owner under this Contract shall result if:

(1) The Owner has violated or failed to comply with any provisions of, or obligation under, this Contract or of any Lease; or

(2) The Owner has asserted or demonstrated an intention not to perform some or all of his obligations under this Contract or under any Lease.

b. Upon a determination by the PHA that a default has occurred, the PHA shall notify the Owner, with a copy to the Government, of (1) the nature of the default, (2) the actions required to be taken and the remedies to be applied on account of the default (including actions by the Owner to cure the default, and, where appropriate, abatement of housing assistance payments in whole or in part and recovery of overpayments), and (3) the time within which the Owner shall respond with a showing that he has taken all the actions required of him. If the Owner fails to respond or take action to the satisfaction of the PHA and the Government, the PHA shall have the right to terminate this Contract in whole or in part or to take other corrective action to achieve compliance, in its discretion or as directed by the Government.

2.17 *Remedies Not Exclusive and Non-Waiver of Remedies.* The availability of any remedy provided for in this ACC or in the Contract shall not preclude the exercise of any other remedy under this ACC or the Contract or under any provisions of law, nor shall any action taken in the exercise of any remedy be deemed a waiver of any other rights or remedies. Failure to exercise any right or remedy shall not constitute a waiver of the right to exercise that or any other right or remedy at any time.

2.18 *Interest of Members, Officers, or Employees of PHA, Members of Local Governing Body, or Other Public Officials.*

(a) Neither the PHA nor any of its contractors or their subcontractors shall enter into any contract, subcontract, or arrangement, in connection with any Project, in which any member, officer, or employees of the PHA or any member of the governing body of the locality in which the Project is situated, or any member of the governing body of the locality in which the PHA was activated, or any other public official of such locality or localities who exercises any responsibilities or functions with respect to the Project during his tenure or for one year thereafter has any interest, direct or indirect. If any such present or former member, officer, or employee of the PHA, or any such governing body member or such other public official of such locality or localities involuntarily acquires or had acquired prior to the beginning of his tenure any such interest, and if such interest is immediately disclosed to the PHA and such disclosure is entered upon the minutes of the PHA, the PHA, with the prior approval of the Government, may waive the prohibition contained in this subsection: *Provided, however,* That any such present member, officer, or employee of the PHA shall not participate in any action by the PHA relating to such contract, subcontract, or arrangement.

(b) The PHA shall insert in all contracts entered into in connection with any Project or any property included or planned to be included in any Project, and shall require its contractors to insert in each of its subcontracts, the following provisions:

No member, officer, or employee of the PHA, no member of the governing body of the locality (city and county) in which the project is situated, no member of the governing body of the locality in which the PHA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this contract or any proceeds or benefits arising therefrom.

(c) The provisions of the foregoing subsections (a) and (b) of this Section 2.18 shall not be applicable to the General Depository Agreement, or utility service the rates for which are fixed or controlled by a governmental agency.

2.19 *Interest of Member of or Delegate to Congress.* No member of or delegate to the Congress of the United States of America or resident commissioner shall be admitted to any share or part of this ACC or to any benefits which may arise therefrom.

APPENDIX IV—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM AGREEMENT TO ENTER INTO HOUSING ASSISTANCE PAYMENTS CONTRACT NEW CONSTRUCTION PRIVATE-OWNER/PHA PROJECT

PART I

This Agreement to Enter into Housing Assistance Payments Contract ("Agreement") is made and entered into by and between the _____ ("PHA"), which is a public housing agency as defined in the United States Housing Act of 1937, 42 U.S.C. 1437, et seq. ("Act"), at section 1437a(6), and _____ ("Owner").

Whereas, the Owner proposes to complete a housing project consisting of improvements and land, as described in the approved Final Proposal; and

Whereas, the Owner and the PHA propose to enter into a Housing Assistance Payments Contract ("Contract") upon the completion of said project for the purpose of making housing assistance payments to enable eligible Lower-Income Families ("Families") to occupy units in said project; and

Whereas, the PHA has entered into an Annual Contributions Contract dated _____, 19__, with the United States of America acting through the Department of Housing and Urban Development ("Government") with respect to Project No. _____ ("ACC"), under which the Government will provide financial assistance to the PHA pursuant to section 8 of the Act for the purpose of making housing assistance payments; and

Whereas, the Owner is also the developer, or, if the developer is other than the Owner, the developer's name is _____.

Now therefore, the parties hereto agree as follows:

1.1 *Significant Dates; Contents of Agreement.*

a. *Time for Completion of Project.* The time for completion of the project (see Section 1.2a) is _____ calendar days after the effective date of this Agreement.

b. *Date for Commencement of Work.* The date for commencement of work (see Section 1.2b) is _____, 19__.

c. *Contents of Agreement.* This Agreement consists of Part I, Part II, and the following exhibits:

Exhibit A: The approved Final Proposal including, among other things, the architect's certification, the Affirmative Fair Housing Marketing Plan (if required), evidence of management capability, and management program (if required);

Exhibit B: The Housing Assistance Payments Contract ("Contract") to be executed upon acceptable completion of the project;

Exhibit C: The Annual Contributions Contract;

Exhibit D: The schedule of completion in stages, if applicable;

Exhibit E: The schedule of minimum rates of wages, if applicable; and

Additional exhibits: [Specify additional exhibits, if any. If none, insert "None."]

This Agreement, including said exhibits, comprises the entire agreement between the parties hereto, and neither party is bound by any representations or agreements of any kind except as contained herein. Nothing contained in this Agreement shall create or affect any relationship between the PHA and the lender or any contractors or subcontractors employed by the Owner in the completion of the project.

1.2 *Schedule of Completion.*

a. *Time for Completion.* The project shall be completed in accordance with section 1.4 no later than the end of the period stated in Section 1.1a, or in stages as provided for in Exhibit D which identifies the units comprising each stage and the date of commencement and time for completion of each stage. Where completion in stages is provided for, all references to project completion shall be deemed to refer to project completion and/or completion of any stage, as appropriate.

b. *Timely Performance of Work.* The Owner agrees that no later than the date stated in Section 1.1b the work will be commenced and diligently continued. In the event the work is not commenced, diligently continued, and/or completed as aforesaid, the PHA reserves the right, subject to Government approval, to rescind this Agreement or take other appropriate action. The Owner shall report to the PHA the date work was commenced and shall thereafter furnish the PHA with perodic progress reports (quarterly unless more frequent reporting is required by the PHA).

c. *Delays.* In the event there is delay in the completion due to strikes, lockouts, labor union disputes, fire, unusual delays in transportation, unavoidable casualties, weather, acts of God, or any other causes beyond the Owner's control, or by delay authorized by the PHA, the time for completion shall be extended to the extent that completion is delayed due to one or more of these causes. No increases in the rents set forth in Exhibit B ("Contract Rents") may be granted on account of any such delays.

1.3 *Construction Period.*

a. *Changes.* The Owner shall submit for PHA and Government approval any changes from Exhibit A which would materially reduce or alter his obligations or any changes which would alter the design or materially reduce the quality or amenities of the project. Approval of such changes may be conditioned on a reduction of Contract Rents. If such changes are made without prior approval by the PHA and the Government, the Owner may be required to reduce the Contract Rents or remedy the defects or deficiencies as a condition for acceptance of the project. Contract Rents may not be increased by reason of any changes or modifications except those required by changes in local codes or ordinances made subsequent to execution of the Agreement, and then only if Government approval is obtained prior to incorporation of any such changes in the project.

b. *Commencement of Marketing.* The Owner shall commence and diligently continue marketing as soon as possible, but in any event no later than 90 days prior to the estimated completion date. The Owner shall notify the PHA of the date of commencement of marketing. The Owner shall also comply with all reporting requirements under the Affirmative Fair Housing Marketing Regulations. Not later than 30 days prior to the estimated completion date and periodically thereafter, the Owner shall notify the PHA of any units which he anticipates will be vacant on the effective date of the Contract. At the time the Contract is executed, the Owner shall submit a list of the dwelling units leased as of the effective date of the Contract and a list of the units not so leased, if any. The Owner will be entitled to housing assistance payments for any unleased units pursuant to Section 1.7b of the Contract only

if he has fully complied with the requirements of this paragraph and the provisions of that Section.

1.4 *Project Completion.*

a. *Conformance to Final Proposal.* The completed project shall be in accordance with Exhibit A. The Owner shall be solely responsible for completion of the project.

b. *Notification of Completion.* The Owner shall notify the Government, with a copy to the PHA, when the work is completed and shall submit to the Government the evidence of completion described in paragraph c of this Section.

c. *Evidence of Completion.* Completion of the project shall be evidenced by furnishing the Government with all of the following:

(1) A set of as-built drawings.

(2) A certificate of occupancy and/or other official approvals necessary for occupancy.

(3) A certification by the Owner, which will be supported by the Owner's warranty in the Contract, that:

(i) The project has been completed in accordance with the requirements of this Agreement;

(ii) The project is in good and tenantable condition;

(iii) There are no defects or deficiencies in the project except for ordinary punchlist items, or incomplete work awaiting seasonal opportunity such as landscaping and heating system test (such excepted items to be specified);

(iv) There has been no change in the evidence of management capability or in the proposed management program (if one was required) specified in his Final Proposal other than changes approved in writing by the PHA and the Government in accordance with Section 1.3a; and

(v)[1] He has complied with the provisions of Sections 2.6 through 2.11 of this Agreement, and that to the best of his knowledge and belief there are no claims of underpayment to laborers or mechanics in alleged violation of said provisions of the Agreement. In the event there are any such pending claims to the knowledge of the Owner or the PHA or the Government, the Owner shall be required to place a sufficient amount in escrow, as determined by the Government, to assure such payments.

(4) A certification by the registered architect responsible for inspection of construction that such inspection was performed by him or under his supervision with the frequency and thoroughness required by the generally accepted standards of professional care and judgment, and that to the best of his knowledge, belief, and professional judgment:

(i) The project has been completed in conformance with the certified working drawings and specifications for the project or approved changes thereto (such changes to be listed);

(ii) The project is in good and tenantable condition;

(iii) There are no defects or deficiencies in the project except for ordinary punchlist items, or incomplete work awaiting seasonal opportunity such as landscaping and heating system test (such excepted items to be specified); and

(iv) The project has been constructed in accordance with applicable zoning, building, housing, and other codes, ordinances or regulations, as modified by any waivers obtained from the appropriate officials.

d. *Review and Inspection.* (1) Within ten working days of the receipt of the evidence of completion, the Government shall review the evidence of completion for compliance with paragraph c of this section.

(2) Within the same time period, a Government representative accompanied by a PHA representative shall inspect the project in a manner sufficient to enable the inspector to report that he has inspected the observable elements and features of the project in accordance with professional standards of care and judgment and that, on the basis of the inspection, the project has been completed in accordance with the Agreement and that there are no observable conditions inconsistent with the evidence of completion, including the certifications of the Owner and the design or inspecting architects. If the inspection discloses defects or deficiencies, the inspector shall report these with sufficient detail and information for purposes of paragraphs f (1) and (2) of this Section.

e. *Acceptance.* If the Government determines from the review and inspection that the project has been completed in accordance with the Agreement, the project shall be accepted.

f. *Acceptance Where Defects or Deficiencies Reported.* If the project is not acceptable under paragraph e, the following shall apply:

(1) If the only defects or deficiencies are punchlist items or incomplete items awaiting seasonal opportunity, the project may be accepted and the Contract executed. If the Owner fails to complete the items within a reasonable time to the satisfaction of the Government and the PHA, the Government may, upon 30 days notice to the Owner and the PHA, cancel its approval of the Contract and require its termination and/or exercise its other rights under the Contract and the ACC.

(2) If the defects or deficiencies are other than punchlist items or incomplete work awaiting seasonal opportunity, the Government shall determine whether and to what extent the defects or deficiencies can be corrected, what corrections are essential to permit the Government to accept the project, whether and to what extent a reduction of Contract Rents will be required as a condition to acceptance of the project, and the extension of time required for the remaining work to be done. The Owner and the PHA shall be notified of the Government's determinations, and, if he agrees to comply with the conditions, an agreement shall be entered into pursuant to which the defects or deficiencies will be corrected and the project then accepted. If the Owner is unwilling to enter into such agreement or if he fails to perform the agreement, the project shall not be accepted.

g. *Notification of Nonacceptance.* If the Government determines that, based on the review of the evidence of completion and inspection, the project cannot be accepted, the Owner shall be promptly notified of this decision and the reasons.

h. *Arbitration.* In the event the Owner disputes the Government determinations, he may submit the controversy to third-party arbitration at his expense; *Provided,* That the arbitration is advisory only.

i. *Completion in Stages.* If the project is to be completed in stages, the procedures of this Section shall apply to each stage.

1.5 *Execution of Housing Assistance Payments Contract.*

a. *Time of Execution.* Upon acceptance of the project by the Government pursuant to Sections 1.3 and 1.4, the Contract shall be executed by the Owner and the PHA and shall then be approved by the Government.

b. *Completion in Stages.* If completion is in stages, the Contract shall be executed upon completion of the first stage, and the number and types of completed units and their Contract Rents shall be shown in Exhibit A-1 of the Contract. Thereafter upon completion of each successive stage, the signature block provided in the Contract for that stage shall be executed by the Owner and the PHA and approved by the Government, and Exhibits A-2, A-3, etc., covering the additional units, shall become part of the Contract.

c. *Unleased Units at Time of Execution.* At the time of execution of the Contract, the PHA shall examine the lists of dwelling units leased and not leased, referred to in Section 1.3b, and shall determine whether or not the Owner has met his obligations under that section with respect to any unleased units. The PHA shall state in writing its determination with respect to the unleased units and for which of those units it will make housing assistance payments pursuant to the Contract. The Owner shall indicate in writing his concurrence with this determination or his disagreement, reserving his rights to claim housing assistance payments for the unleased units pursuant to the Contract, without prejudice by reason of his signing the Contract. Copies of all documents referred to in this paragraph shall be furnished to the Government.

d. *Contract Rents.* The Contract Rents by unit size, amounts of housing assistance payments, and all other applicable terms and conditions shall be as specified in the proposed Housing Assistance Payments Contract, except as provided in Section 1.3a and in paragraph f of this Section (where applicable).

e. *No Changes in Contract.* Each party has read or is presumed to have read the proposed Contract. It is expressly agreed that there shall be no change in the terms and conditions of the Contract other than as provided in this Agreement.

f.[2] *Adjustment of Contract Rents to Reflect Actual Cost of Permanent Financing.* (The provisions of this paragraph shall apply if the project is permanently financed prior to project completion; if the permanent financing does not occur until after project completion, the adjustments contemplated by paragraph f will be made in accordance with the comparable provisions contained in the Contract.) After the project is permanently financed, the Financing Agency shall submit a certification to the Government as to the actual financing terms. If the actual debt service under the permanent financing is lower than the anticipated debt service on which the Contract Rents were based, the initial Contract Rents shall be reduced commensurately, and the amount of the savings shall be credited to the Project Account. The maximum ACC commitment shall not be reduced. If the actual debt service is higher, the Contract Rents shall not be increased.

1.6 *Government Assurance to Owner.* The approval of this Agreement by the Government signifies that the Government has executed the ACC and that the ACC has been properly authorized; that the faith of the United States is solemnly pledged to the payment of annual contributions pursuant to said ACC; and that funds have been obligated by the Government for such payments to assist the PHA in the performance of its obligations under the Contract. The Government and the PHA shall not, without the consent of the Owner, amend or modify the ACC in any manner which would reduce the amount of annual contributions payable thereunder for housing assistance payments except as authorized in the ACC and the Contract.

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[1] Strike this paragraph if the project involves fewer than nine Contract units.

[2] Delete this paragraph unless the project is subject to 24 CFR, 880.125.

1.7 *Authority of the PHA.*

The PHA warrants that it is a "public housing agency" as defined in section 3(6) of the Act and that it is in fact and in law authorized to execute this Agreement.

Effective date. This Agreement shall be effective as of the date of approval by the Government.

In witness whereof, the parties hereto have executed this Agreement in four original counterparts.

WARNING: 18 U.S.C. 1001 provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

Approved: _____
United States of America, Secretary of Housing and Urban Development.

By: _____
_____
(Official Title)
Date: _____, 19____
PHA: _____
By: _____
_____
(Official Title)
Date: _____, 19____
Owner: _____
By: _____
_____
(Official Title)
Date: _____, 19____

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—AGREEMENT TO ENTER INTO HOUSING ASSISTANCE PAYMENTS CONTRACT, NEW CONSTRUCTION, PRIVATE-OWNER/PHA PROJECT

PART II

2.1 *Training, Employment, and Contracting Opportunities for Businesses and Lower-Income Persons.*[3]

a. The project assisted under this Agreement is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

b. Notwithstanding any other provision of this Agreement, the Owner shall carry out the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135 (published in 38 FR 29220, October 23, 1973), and all applicable rules and orders of the Secretary issued thereunder prior to the execution of this Agreement. The requirements of said regulations include, but are not limited to, development and implementation of an affirmative action plan for utilizing business concerns located within, or owned in substantial part by persons residing in, the area of the project; the making of a good faith effort, as defined by the regulations, to provide training, employment, and business opportunities required by section 3; and incorporation of the "section 3 clause" specified by § 135.20(b) of the regulations and paragraph d of this Section in all contracts for work in connection with the project. The Owner certifies and agrees that he is under no contractual or other disability which would prevent him from complying with these requirements.

c. Compliance with the provisions of section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Secretary issued thereunder prior to approval by the Government of the application for this Agreement, shall be a condition of the Federal financial assistance provided to the project, binding upon the Owner, his successors and assigns. Failure to fulfill these requirements shall subject the Owner, his contractors and subcontractors, his successors, and assigns to the sanction specified by this Agreement, and to such sanctions as are specified by 24 CFR 135.135.

d. The Owner shall incorporate or cause to be incorporated into any contract or subcontract for work pursuant to this Agreement in excess of $50,000 cost, the following clause:

EMPLOYMENT OF PROJECT AREA RESIDENTS AND CONTRACTORS

A. The work to be performed under this Agreement is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project area, and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

B. The parties to this Agreement will comply with the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Agreement. The parties to this Agreement certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

C. The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

D. The contractor will include this section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135, and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

E. Compliance with the provisions of section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the Agreement, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR 135.135.

e. The Owner agrees that he will be bound by the above Employment of Project Area Residents and Contractors clause with respect to his own employment practices when he participates in federally assisted work.

2.2 *Equal Employment Opportunity.*[4]

a. The Owner shall incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is to be performed pursuant to this Agreement, the following Equal Opportunity clause:

EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment, or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by or at the direction of the Government setting forth the provisions of this Equal Opportunity clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, creed, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by or at the direction of the Government advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by HUD and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the Equal Opportunity clauses of this contract or with any of the

[3] Strike this Section if the Contract Rents under the proposed Housing Assistance Payments Contract, over the maximum term of said Contract, are $500,000 or less.

[4] As used in Section 2.2, "HUD" means the United States of America acting through the Department of Housing and Urban Development.

said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor or as otherwise provided by Law.

(7) The contractor will include the portion of the sentence immediately preceding Paragraph (1) and the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Government may direct as a means of enforcing such provisions including sanctions for noncompliance; Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Government, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

b. The Owner agrees that he will be bound by the above Equal Opportunity clause with respect to his own employment practices when he participates in federally assisted construction work.

c. The Owner agrees that he will assist and cooperate actively with HUD and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the Equal Opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that he will furnish HUD and the Secretary of Labor such information as they may require for the supervision of such compliance, and that he will otherwise assist HUD in the discharge of HUD's primary responsibility for securing compliance.

d. The Owner further agrees that he will refrain from entering into any contract or contract modification subject to Executive Order No. 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the Equal Opportunity clause as may be imposed upon contractors and subcontractors by HUD or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order.

2.3 *Cooperation in Equal Opportunity Compliance Reviews.*

The PHA and the Owner shall cooperate with the Government in the conducting of compliance reviews and complaint investigations pursuant to all applicable civil rights statutes, Executive Orders, and rules and regulations pursuant thereto.

2.4 *Flood Insurance.*

If the project is located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards and if the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, the Owner agrees that the project will be covered, during its anticipated economic or useful life, by flood insurance in an amount at least equal to its development or project cost (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less.

2.5 *Clean Air Act and Federal Water Pollution Control Act.*[5]

In compliance with regulations issued by the Environmental Protection Agency ("EPA"), 40 CFR Part 15, 39 FR 11099, pursuant to the Clean Air Act, as amended ("Air Act"), 42 U.S.C. 1857, et seq., the Federal Water Pollution Control Act, as amended ("Water Act"), 33 U.S.C. 1251, et seq., and Executive Order 11738, the Owner agrees that:

a. Any facility to be utilized in the performance of this Agreement or any subcontract shall not be a facility listed on the EPA List of Violating Facilities pursuant to § 15.20 of said regulations;

b. He will promptly notify the PHA of the receipt of any communication from the EPA indicating that a facility to be utilized for the Agreement is under consideration to be listed on the EPA List of Violating Facilities;

c. He will comply with all the requirements of section 114 of the Air Act and section 308 of the Water Act relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in section 114 and section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder; and

d. He will include or cause to be included the provisions of this Section in every nonexempt subcontract, and that he will take such action as the Government may direct as a means of enforcing such provisions.

2.6 *Prevailing Wage Rates.*[6]

a. Attached hereto and incorporated herein as Exhibit D is a schedule of minimum rates of wages applicable to this Agreement.

b. All laborers and mechanics employed in the construction of the project shall be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amounts due at the time of payment computed at wage rates not less than those contained in the wage determination decision of the Secretary of Labor of the United States, which is incorporated herein, regardless of any contractual relationship which may be alleged to exist between the Owner or any subcontractor and such laborers and mechanics; and the wage determination decision and the Department of Labor Wage Rate Information Poster shall be posted by the Owner at the site of the work in a prominent place where it can be easily seen by the workers. For the purpose of this clause, contributions made or costs reasonably anticipated under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics subject to the provisions of paragraph c of this Section. Also for the purpose of this clause, regular contributions made or costs incurred for more than a weekly period under plans, funds, or programs, but covering the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

c. The Owner may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, or any bona fide fringe benefits not expressly listed in section 1(b)(2) of the Davis-Bacon Act or otherwise not listed in the wage determination decision of the Secretary of Labor which is included in this Agreement, only when the Secretary of Labor has found, upon the written request of the Owner, that the applicable standards of the Davis-Bacon Act have been met. Whenever practicable, the Owner should request the Secretary of Labor to make such findings before the making of the Agreement. In the case of unfunded plans and programs, the Secretary of Labor may require the Owner to set aside in a separate account assets for the meeting of obligations under the plan or program.

d. The Owner shall comply with the Copeland (Anti-Kickback) Regulations (29 CFR Part 3) of the Secretary of Labor which are herein incorporated by reference.

e. Any class of laborers or mechanics (including apprentices and trainees) which is not listed in the wage determination and which is to be employed under the Agreement shall be classified or reclassified conformably to the wage determination. In the event that agreement cannot be reached on the proper classification or reclassification of a particular class of laborers and mechanics (including apprentices and trainees) to be used, the question will be referred by HUD to the Secretary of Labor for final determination.

f. Whenever the minimum wage rate prescribed in the Agreement for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly wage rate and the Owner is obligated to pay a cash equivalent of such a fringe benefit, an hourly cash equivalent thereof shall be established. In the event that the agreement cannot be reached upon a cash equivalent of the fringe benefit, the question will be referred by HUD to the Secretary of Labor for final determination.

g. (1) (i) Apprentices will be permitted to work as such only when they are registered individually under a bona fide apprenticeship program registered with a State apprenticeship agency which is recognized by the Bureau of Apprenticeship and Training, U.S. Department of Labor; or, if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, U.S. Department of Labor. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the Owner as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not a trainee as defined in subsection (b) immediately following or is not registered as above, shall be paid the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The Owner will be required to furnish to the other party to this Agreement written evidence of the registration of his program and apprentices, as well as of the appropriate ratios and wage rates for the area of construction prior to using any apprentices on the contract work.

(ii) Trainees will be permitted to work as such when they are bona fide trainees employed pursuant to a program approved by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training, and where subsection (c) immediately following is applicable, in accordance with the provisions of paragraph g(2) of this section.

(iii) On contracts in excess of $10,000 the employment of all laborers and mechanics, including apprentices and trainees, as defined in 29 CFR 5.2(c) shall also be sub-

[5] Strike this Section if the Contract Rents under the proposed Housing Assistance Payments contract, over the maximum term of said Contract, are $100,000 or less.

[6] As used in Sections 2.6 through 2.11, "HUD" means the United States of America acting through the Department of Housing and Urban Development. Strike Sections 2.6 through 2.11 if the project involves fewer than nine Contract units.

ject to the provisions of paragraph g(2) of this section. Apprentices and trainees shall be hired in accordance with the provisions of paragraph g(2).

(2) The Owner agrees that:

(i) He will make a diligent effort to hire for the performance of the Agreement a number of apprentices or trainees, or both, in each occupation, which bears to the average number of the journeymen in that occupation to be employed in the performance of the Agreement the applicable ratio as determined by the Secretary of Labor;

(ii) He will assure that 25 percent of such apprentices or trainees in such occupation are in their first year of training, where feasible. Feasibility here involves a consideration of (A) the availability of training opportunities for first year apprentices, (B) the hazardous nature of the work for beginning workers, (C) excessive unemployment of apprentices in their second and subsequent years of training;

(iii) During the performance of the Agreement he will, to the greatest extent possible, employ the number of apprentices or trainees necessary to meet currently the requirements of (i) and (ii) immediately preceding;

(iv) He will maintain records of employment by trade of the number of apprentices and trainees, apprentices and trainees by first year of training, and of journeymen, and the wages paid and hours of work of such apprentices, trainees and journeymen; and he will make these records available for inspection upon request of the Department of Labor and HUD;

(v) If he claims compliance based on the criterion stated in 29 CFR 5a.4(b), he will maintain records of employment, as described in the immediately preceding paragraph, on non-Federal and nonfederally assisted construction work done during the performance of the contract in the same labor market area; and he will make these records available for inspection upon request of the Department of Labor and HUD;

(vi) He will supply one copy of the written notices required in accordance with 29 CFR 5a.4(c) at the request of the Government compliance officers, and will supply at three-month intervals during the performance of the Agreement and after completion of Agreement performance a statement describing steps taken toward making a diligent effort and containing a breakdown by craft, of hours worked and wages paid for first year apprentices and trainees, other apprentices and trainees, and journeymen. One copy of the statement will be sent to HUD and one to the Secretary of Labor.

2.7 *Submittal of payrolls and related reports.*

a. Payrolls and basic records relating thereto shall be maintained during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics employed in the construction of the project. Such records shall contain the name and address of each such employee, his correct classification, rates of pay (including rates of contributions or costs anticipated of the types described in section 1(b)(2) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found under Section 2.6c that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Owner shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

b. The Owner shall submit weekly to the other party to this Agreement such copies and summaries of all his payrolls and those of each of his subcontractors as such other party may require. Each payroll and summary shall be accompanied by a statement signed by the employer or his agent indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the Secretary of Labor, and that the classifications set forth for each laborer or mechanic conform with the work he performed. A submission of a "Weekly Statement of Compliance," which is required under this Agreement and the Copeland Regulations of the Secretary of Labor (29 CFR Part 3), and the filing with the initial payroll or any subsequent payroll of a copy of any findings by the Secretary of Labor under Section 2.6c shall satisfy this requirement. The Owner shall make the records required under the labor standards clauses of this Agreement available for inspection by authorized representatives of HUD and the Department of Labor, and will permit such representatives to interview employees during working hours on the job.

c. The Owner shall also furnish to the other parties to this Agreement any other information or certifications relating to employees in such form as such other party may request.

2.8 *Disputes concerning wage rates and classifications of labor.*

a. All disputes concerning prevailing wage rates or classifications arising under this Agreement involving (1) significant sums of money, (2) large groups of employees, or (3) novel or unusual situations shall be promptly reported to HUD for decision or, at the option of HUD, referral to the Secretary of Labor of the United States. The decision of HUD or the Secretary of Labor, as the case may be, shall be final.

b. All questions arising under this Agreement relating to the application or interpretation of the Copeland (Anti-Kickback) Act shall be referred to the Secretary of Labor of the United States for ruling or interpretation, and such ruling or interpretation shall be final.

2.9 *Wage Claims and Adjustments.*

In cases of underpayment of salaries or wages to any laborers or mechanics (including apprentices and trainees) by the Owner (or any of his subcontractors), the Owner shall be required to place an amount in escrow, as determined by HUD, sufficient to pay persons employed on the work covered by the Agreement the difference between the salaries or wages actually paid such employees for the total number of hours worked, and the amounts withheld may be disbursed by HUD for and on account of the Owner or the subcontractor to the respective employees to whom they are due.

2.10 *Contract Work: Hours and Safety Standards Act—Overtime Compensation.*

a. Neither the Owner nor any subcontractor contracting for any part of the work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of forty hours in any such workweek, as the case may be.

b. In the event of any violation of the clause set forth in paragraph a of this Section, the Owner and any subcontractor responsible therefor shall be liable to any affected employee for his unpaid wages. In addition, such Owner and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed, with respect to each individual laborer or mechanic employed in violation of the clause set forth in paragraph a of this Section, in the sum of $10 for each calendar day on which such employee was required or permitted to work in excess of eight hours or in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph a.

c. The Owner shall deposit in escrow such amounts determined by HUD to be necessary to satisfy any liability of the Owner or any subcontractor for liquidated damages as provided in paragraph b of this section.

2.11 *Termination; debarment; subcontracts.*

a. A breach of the provisions of the foregoing Sections 2.6, 2.7, 2.8, 2.9, and 2.10 may be grounds for termination of this Agreement and for debarment as provided in 29 CFR 5.6.

b. The Owner shall insert in any subcontracts Sections 2.6 (and with respect to Section 2.6g(2), copies of 29 CFR, 5a.4, 5a.5, 5a.6 and 5a.7 shall be attached), 2.7, 2.8, 2.9, 2.10, and 2.11a, and also a clause requiring the subcontractors to include these Sections in any lower tier subcontract which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

2.12 *Failure or Inability of PHA to comply with Agreement.*

The following provisions of the ACC are hereby made a part of this Agreement:

a. *Rights of Owner if PHA Defaults Under Agreement or Contract.*

(1) In the event of failure of the PHA to comply with the Agreement with the Owner, or if such Agreement is held to be void, voidable or ultra vires, or if the power or right of the PHA to enter into such Agreement is drawn into question in any legal proceeding, or if the PHA asserts or claims that such Agreement is not binding upon the PHA for any such reason, the Government may, after notice to the PHA giving it a reasonable opportunity to take corrective action, determine that the occurrence of any such event constitutes a Substantial Default hereunder. Where the Government so determines, it may assume the PHA's rights and obligations under such Agreement and carry out the obligations of the PHA under the Agreement, including the obligation to enter into the Contract.

* * * * *

(3) All rights and obligations of the PHA assumed by the Government pursuant to this Section 2.16(a) will be returned as constituted at the time of such return (i) when the Government is satisfied that all defaults have been cured and that the Project will thereafter be administered in accordance with all applicable requirements, or (ii) when the Housing Assistance Payments Contract is at an end, whichever occurs sooner.

(4) The provisions of this Section 2.16(a) are made with, and for the benefit of, the Owner or his assignees who will have been specifically approved by the Government prior to such assignment. If the Owner and the assignees are not in default, they may, in order to enforce the performance of these provisions, (i) demand that the Government, after notice to the PHA giving it a reasonable opportunity to take corrective action,

make a determination whether a Substantial Default exists, demand that the Government take the actions authorized in paragraph (a) (1) or (a) (2) to carry out the obligations of the PHA to the Owner, and (iii) proceed against the Government by suit at law or in equity.

2.13 *Disputes.*

a. Except as otherwise provided herein, any dispute concerning a question of fact arising under this Agreement which is not disposed of by agreement of the PHA and the Owner may be submitted by either party to the Department of Housing and Urban Development field office director who shall make a decision and shall mail or otherwise furnish a written copy thereof to the Owner and the PHA.

b. The decision of the field office director shall be final and conclusive unless, within 30 days from the date of receipt of such copy, either party mails or otherwise furnishes to the Government a written appeal addressed to the Secretary of Housing and Urban Development. The decision of the Secretary or duly authorized representative for the determination of such appeals shall be final and conclusive, unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this section, the appellant shall be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute hereunder, both parties shall proceed diligently with the performance of the Agreement and in accordance with the decision of the field office director.

c. This Section does not preclude consideration of question of law in connection with decisions rendered under paragraphs a and b of this section; *Provided, however,* That nothing herein shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

2.14 *Interest of Members, Officers, or Employees of PHA, Members of Local Governing Body, or Other Public Officials.*

No member, officer, or employee of the PHA, no member of the governing body of the locality (city and county) in which the project is situated, no member of the governing body of the locality in which the PHA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this Agreement or in any proceeds or benefits arising therefrom.

2.15 *Interest of Member of or Delegate to Congress.*

No member of or delegate to the Congress of the United States of America or resident commissioner shall be admitted to any share or part of this Agreement or to any benefits which may arise therefrom.

2.16 *Nonassignability.*

a. The Owner agrees that he has not made and will not make any sale, assignment, or conveyance or transfer in any other form, of this Agreement or the project or any part thereof or any of his interest therein, without the prior consent of the PHA and the Government: *Provided, however,* That in the case of an assignment as security for the purpose of obtaining financing of the project, the PHA and the Government shall consent in writing if the terms of the financing have been approved by the Government. An assignment by the Owner to a limited partnership of which the Owner is the sole general partner shall not be considered an assignment herein.

b. The Owner agrees that he will not change to a different developer from the one named in the preamble of this Agreement, except with the prior consent of the PHA and the Government.

c. The Owner agrees that the approved developer has not made, and will not make, except with the prior consent of the PHA and the Government, any assignment or transfer in any form of the developer's contract to construct the project, or of any part thereof, or any of the developer's interests therein.

d. The Owner agrees to notify the PHA and the Government promptly of any proposed action covered by paragraph a or b or c of this section. The Owner further agrees to request the written consent of the PHA and the Government in regard thereto, except in the case of an assignment as security as provided in paragraph a of this Section.

e. For the purpose of this Section, a transfer of stock in the Owner or developer in whole or in part, by a party holding ten percent or more of the stock of said Owner or developer, or a transfer by more than one stockholder or the owner of 10 percent or more of the stock of said Owner, or any other similarly significant change in the ownership of such stock or in the relative distribution thereof, or with respect to the parties in control of the Owner or developer or the degree thereof, by any other method or means, whether by increased capitalization, merger with another corporation, corporate or other amendments, issuance of new or additional stock or classification of stock or otherwise, shall be deemed an assignment, conveyance, or transfer with respect to this Agreement, the project or the construction contract. With respect to this provision, the Owner, and the party signing this Agreement on behalf of said Owner, represent that they have the authority of all of the existing stockholders of the Owner to agree to this provision on behalf of said stockholders and to bind them with respect thereto.

APPENDIX V—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—HOUSING ASSISTANCE PAYMENTS CONTRACT, NEW CONSTRUCTION, PRIVATE-OWNER/PHA PROJECT

PART I

This Housing Assistance Payments Contract ("Contract") is entered into by and between the _____ ("PHA"), which is a public housing agency as defined in the United States Housing Act of 1937, 42 U.S.C. 1437, et seq. ("Act"), at section 1437a(6), and _____ ("Owner"), and approved by the United States of America acting through the Department of Housing and Urban Development ("Government"), pursuant to the Act and the Department of Housing and Urban Development Act, 42 U.S.C. 3531, et seq.

The parties hereto agree as follows:

1.1 *Significant Dates and Other Items; Contents of Contract.*

a. *Effective Date of Contract.* The effective date of this Contract is _____, 19__. [This date shall be no earlier than the date approved by the Government.]

b. *Initial Term of Contract.* The initial term of this Contract (see Section 1.4a) shall be _____ years [not to exceed five years], beginning with the effective date of this Contract and ending _____, 19__.

c. *Number and Length of Optional Additional Terms.* The number and length of optional additional terms (see Section 1.4a) shall be _____ terms of _____ years each [not to exceed five years each].

d. *Maximum Total Term of Contract.* The maximum total term of this Contract for any unit, including renewals (see Section 1.4a), shall be _____ years. (Insert 20, except that (1) in the case of a project owned by, or financed by a loan or loan guarantee from, a State or local agency, insert the number, not to exceed 40, which will provide a term ending with the scheduled maturity date for the last payment under such financing, and (2) in the case of a mobile homes project, insert number as authorized by the Government pursuant to 24 CFR 880.109, not to exceed 20.)

e. *Fiscal Year.* The ending date of each Fiscal Year (see Section 1.4b) shall be _____ (insert March 31, June 30, September 30, or December 31, as determined by the Government).

f. *Annual Contributions Contract.* The Annual Contributions Contract applicable to this Contract ("ACC") (see Section 1.5a) is the ACC dated _____ with respect to Project No. _____.

g. *Maximum Housing Assistance Commitment.* The maximum amount of the commitment for housing assistance payments under this Contract (see Section 1.6a) is $_____ per annum. [Enter amount specified in the ACC for housing assistance payments.]

h. *Contents of Contract.* This Contract consists of Part I, Part II, and the following exhibits:

Exhibit A: The schedule showing the number of units by size ("Contract Units") and their applicable rents ("Contract Rents");

Exhibit B: The project description;

Exhibit C: The statement of services, maintenance and utilities to be provided by Owner;

Exhibit D: The Affirmative Fair Housing Marketing Plan, if applicable; and

Additional exhibits: [Specify additional exhibits, if any. If none, insert "None."]

This Contract, including said exhibits, comprises the entire agreement between the parties hereto, and neither party is bound by any representations or agreements of any kind except as contained herein.

1.2 *Owner's Warranties.*

a. *Legal Capacity.* The Owner warrants that he has the legal right to execute this Contract and to lease dwelling units covered by this Contract.

b. *Completion of Work.* The Owner warrants that the project as described in Exhibit B is in good and tenantable condition and that the project has been completed in accordance with the terms and conditions of the Agreement to Enter into Housing Assistance Payments Contract ("Agreement") or will be completed in accordance with the terms on which the project was accepted. The Owner further warrants that he will remedy any defects or omissions covered by this warranty if called to his attention within 12 months of the effective date of this Contract. The Owner and the PHA agree that the continuation of this Contract shall be subject to the conditions set forth in Section 1.4f of the Agreement.

1.3 *Families to be Housed; PHA Assistance.*

a. *Families To Be Housed.* The Contract Units are to be leased by the Owner to eligible Lower-Income Families ("Families") for use and occupancy by such Families solely as private dwellings.

b. *PHA Assistance.* (1) The PHA hereby agrees to make housing assistance payments on behalf of Families for the Contract Units, to enable such Families to lease Decent, Safe, and Sanitary housing pursuant to section 8 of the Act. Such housing assistance payments shall equal the difference between the Contract Rents for units leased by Families and the portion of such rents payable by Families as determined by the Owner in accordance with schedules and criteria established by the Government.

(2) If there is an Allowance for Utilities and Other Services and if such Allowance

exceeds the Gross Family Contribution, the Owner shall pay the Family the amount of such excess on behalf of the PHA upon receipt of funds from the PHA for that purpose.

1.4 *Term of Contract; Fiscal Year.*

a. *Term of Contract.*

(Alternative provisions—incorporate alternative 1, 2, or 3, as applicable.)

Alternative 1—General. The initial term of this Contract shall be as stated in Section 1.1b. This Contract may be renewed, at the sole option of the Owner, for the number and length of additional terms stated in Section 1.1c: *Provided,* That the total Contract term for any unit, including renewals, shall not exceed the number of years stated in Section 1.1d. Renewal shall be automatic unless the Owner notifies the PHA, no later than 60 days prior to the expiration of the current term, of his intention not to renew. If the project is completed in stages, the dates for the initial term and renewal terms shall be separately related to the units in each stage; *Provided, however,* That the total Contract term for the units in all the stages, beginning with the effective date of the Contract with respect to the first stage, shall not exceed the total Contract term stated in Section 1.1d, plus two years.

Alternative 2—For mobile homes project. In the case of mobile homes, the initial term of this Contract for each mobile home shall be as stated in Section 1.1b: This Contract shall be renewed, as may be mutually agreed upon by the Owner and the PHA with the approval of the Government, with respect to any mobile home, for the number and length of additional terms as stated in Section 1.1c; *Provided,* That the total Contract term for any mobile home, including renewals, shall not exceed the number of years stated in Section 1.1d. Renewals shall become effective only if either party gives written notice, no later than 60 days prior to the expiration of the current term, of his desire to renew, and the other party concurs or fails to object before the expiration of the current term. If the project is completed in stages, the dates for the initial term and renewal terms shall be separately related to the mobile homes in each stage; *Provided, however,* That the total contract term for the mobile homes in all stages, beginning with the effective date of the Contract with respect to the first stage, shall not exceed the total Contract term stated in Section 1.1d, plus two years. For purposes of this paragraph a, the term "mobile home" means the original mobile home and any replacement(s), combined.

b. *Fiscal Year.* The Fiscal Year for the project shall be the 12-month period ending on the date stated in Section 1.1e; *Provided, however,* That the first Fiscal Year for the project shall be the period beginning with the effective date of the Contract and ending on the last day of said established Fiscal Year which is not less than 12 months after such effective date. If the first Fiscal Year exceeds 12 months, the maximum total annual housing-assistance payment in Section 1.6a may be adjusted by the addition of the pro rata amount applicable to the period of operation in excess of 12 months.

1.5 *Annual Contributions Contract.*

a. *Identification of Annual Contributions Contract.* The PHA has entered into an Annual Contributions Contract with the Government, as identified in Section 1.1f. under which the Government will provide financial assistance to the PHA pursuant to section 8 of the Act for the purpose of making housing assistance payments. A copy of the ACC shall be provided upon request.

b. *PHA Pledge of Certain ACC Payments.* The PHA hereby pledges to the payment of housing assistance payments pursuant to this Contract the portion of annual contributions payable under the ACC for such housing assistance payments. The PHA shall not, without the consent of the Owner, amend or modify the ACC in any manner which would reduce the amount of such annual contributions, except as authorized in the ACC and this Contract.

c. *Government Approval of Housing Assistance Payments Contract.* The approval of this Contract by the Government signifies that the Government has executed the ACC and that the ACC has been properly authorized; that the faith of the United States is solemnly pledged to the payment of annual contributions pursuant to said ACC; and that funds have been obligated by the Government for such payments to assist the PHA in the performance of its obligations under the Contract.

1.6 *Maximum Housing Assistance Commitment; Project Account.*

a. *Maximum Housing Assistance Commitment.* Notwithstanding any other provisions of this Contract (other than paragraph b of this Section) or any provisions of any other contract between the PHA and the Owner, the PHA shall not be obligated to make and shall not make any housing assistance payments under this Contract in excess of the amount per annum stated in Section 1.1g: *Provided, however,* That this amount shall be reduced commensurately with any reduction in the number of Contract Units or in the Contract Rents or pursuant to any other provision of the ACC or this Contract.

b. *Project Account.* As provided in the ACC, in order to assure that housing assistance payments will be increased on a timely basis to cover increases in Contract Rents or decreases in Family Incomes:

(1) A Project Account shall be established and maintained, in an amount as determined by the Government consistent with its responsibilities under section 8(c)(6) of the Act, out of amounts by which the Maximum ACC Commitment per year exceeds amounts paid under the ACC for any Fiscal Year. This account shall be established and maintained by the Government as a specifically identified and segregated account. To the extent funds are available in said account, the maximum total annual housing assistance pyments for any Fiscal Year may exceed the maximum amount stated in paragraph a of this Section to cover increases in Contract Rents or decreases in Family Incomes (see Section 1.9). Any amount remaining in said account after payment of the last housing assistance payment with respect to the project shall be applied by the Government in accordance with law.

(2) Whenever the Government approved estimate of the required Annual Contribution exceeds the Maximum ACC Commitment then in effect, and would cause the amount in the Project Account to be less than an amount equal to 40 percent of such Maximum ACC Commitment, the Government shall, within a reasonable period of time, take such additional steps authorized by section 8(c)(6) of the Act as may be necessary to carry out this assurance, including (as provided in that section of the Act) "the reservation of annual contributions authority for the purpose of amending housing assistance contracts or the allocation of a portion of new authorizations for the purpose of amending housing assistance contracts."

1.7 *Housing Assistance Payments to Owners.*

a. *General.* (1) Housing assistance payments shall be paid to the Owner for units under lease by Families in accordance with the Contract. The housing assistance payment will cover the difference between the Contract Rent and that portion of said rent payable by the Family as determined in accordance with the Government-established schedules and criteria.

(2) The amount of housing assistance payment payable on behalf of a Family and the amount of rent payable by such Family shall be subject to change by reason of changes in Family Income, Family composition, or extent of exceptional medical or other unusual expenses, in accordance with the Government-established schedules and criteria; or by reason of adjustment by the PHA of any applicable Allowance for Utilities and Other Services. Any such change shall be effective as of the date stated in a notification of such change to the Family.

b. *Vacancies During Rent-up.* If a Contract Unit is not leased as of the effective date of the Contract, the Owner shall be entitled to housing assistance payments in the amount of 80 percent of the Contract Rent for the unit for a vacancy period not exceeding 60 days from the effective date of the Contract, provided that the Owner (1) commenced marketing and otherwise complied with Section 1.3b of the Agreement, (2) has taken and continues to take all feasible actions to fill the vacancy, including, but not limited to, contracting applicants on his waiting list, if any, requesting the PHA and other appropriate sources to refer eligible applicants, and advertising the availability of the unit, and (3) has not rejected any eligible applicant, except for good cause acceptable to the PHA.

c. *Vacancies After Rent-up.* (1) If a Family vacates its unit (other than as a result of action by the Owner which is in violation of the Lease or the Contract or any applicable law), the Owner shall receive housing assistance payments in the amount of 80 percent of the Contract Rent for a vacancy period not exceeding 60 days: *Provided, however,* That if the Owner collects any of the Family's share of the rent for this period in an amount which, when added to the 80 percent payments, results in more than the Contract Rent, such excess shall be payable to the Government or as the Government may direct. (See also Section 1.10b.) The Owner shall not be entitled to any payment under this subparagraph unless he: (i) immediately upon learning of the vacancy, has notified the PHA of the vacancy or prospective vacancy and the reasons for the vacancy, and (ii) has taken and continues to take actions specified in paragraphs b(2) and b(3) of this section.

(2) If the Owner evicts a Family, he shall not be entitled to any payment under paragraph c(1) of this section unless the request for such payment is supported by a certification that (i) he gave such Family a written notice of the proposed eviction, stating the grounds and advising the Family that it had 10 days within which to present its objections to the Owner in writing or in person and (ii) the proposed eviction was not in violation of the Lease or the Contract or any applicable law.

d. *Limitation on Payments for Vacant Units.* The Owner shall not be entitled to housing assistance payments with respect to vacant units under this section to the extent he is entitled to payments from other sources (e.g., payments for losses of rental income incurred for holding units vacant for relocatees pursuant to Title I of the Housing and Community Development Act of 1974 or payments under Section 1.10b of this Contract).

e. *PHA Not Obligated for Family Rent.* The PHA has not assumed any obligation for the amount of rent payable by any Family or the satisfaction of any claim by the Owner against any Family other than in accordance with Section 1.10b of this Contract. The financial obligation of the PHA is limited to making housing assistance payments on behalf of Families in accordance with this Contract.

f. *Owner's Monthly Requests for Payments.* (1) The Owner shall submit monthly requests to the PHA or as directed by the PHA for housing assistance payments. Each such request shall set forth: (i) The name of each Family and the address and/or number of the unit leased by the Family; (ii) the address and/or the number of units, if any, not leased to Families for which the Owner is claiming payments; (iii) the Contract Rent as set forth in Exhibit A for each unit for which the Owner is claiming payments; (iv) the amount of rent payable by the Family leasing the unit (or, where applicable, the amount to be paid the Family in accordance with Section 1.3b(2)); and (v) the total amount of housing assistance payments requested by the Owner.

(2) Each of the Owner's monthly requests shall contain a certification by him that to the best of his knowledge and belief (i) the dwelling units are in Decent, Safe, and Sanitary condition, (ii) all the other facts and data on which the request for funds is based are true and correct, (iii) the amount requested has been calculated in accordance with the provisions of this Contract and is payable under the Contract, and (iv) none of the amount claimed has been previously claimed or paid.

(3) If the Owner has received an excessive payment, the PHA or the Government, in addition to any other rights to recovery, may deduct the amount from any subsequent payment or payments.

(4) The Owner's monthly requests for housing assistance payments shall be made subject to penalty under 18 U.S.C. 1001, which provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

g. *Recoupment of Savings in Financing Cost.* (1) In the event that the interim financing is continued beyond one year from the effective date of the Contract and the interest cost of the interim financing for any period of three months, after such first year, is less than the anticipated debt service under the permanent financing on which the Contract Rents were based, an amount reflecting the savings in financing cost, computed in accordance with paragraph g(2) of this section, shall be credited by the Government to the Project Account, and withheld from housing assistance payments to the Owner. If during the course of the same year there is any period of three months in which the financing cost is greater than the anticipated debt service under the permanent financing, an adjustment shall be made so that only the net amount of savings in financing cost for the year is credited by the Government to the Project Account and withheld from housing assistance payments to the Owner as aforesaid (no increased payments shall be made to the Owner on account of any net excess for the year of actual interim financing cost over the anticipated debt service under the permanent financing). Nothing in this paragraph g shall be construed as requiring a reduction in the Contract Rents or precluding adjustments of Contract Rents in accordance with Section 1.9.[1]

(2) The computation and recoupment under this paragraph g may be made on an annual or on a quarterly or other periodic basis, but in any event no later than as of the end of each Fiscal Year; *Provided, however,* That if recoupment is to be made less often than quarterly, the amounts of recoupment shall be computed on at least a quarterly basis and the funds deposited in a special account from which withdrawals may be made only with the authorization of the PHA. The manner of computing the amount of recoupment shall be as follows:

(i) Determine the amount by which the interest cost for the interim financing for the period in question is less than the anticipated debt service under the permanent financing on which the Contract Rents were based;

(ii) Determine what percentage the amount found under paragraph g(2)(i) of this section is of the aggregate Contract Rents for all Contract Units for the period in question;

(iii) Apply the percentage found in paragraph g(2)(ii) of this Section to the aggregate Contract Rents for those Contract Units which are included in the Owner's claim(s) for housing assistance payments for the period in question; and

(iv) The amount found in paragraph g(2)(iii) of this section shall be credited to the Project Account and withheld from the next housing assistance payment or payments to the Owner.

1.8 *Maintenance, Operation and Inspection.*

a. *Maintenance and Operation.* The Owner agrees (1) to maintain and operate the Contract Units and related facilities so as to provide Decent, Safe, and Sanitary housing, and (2) to provide all the services, maintenance and utilities set forth in Exhibit C. If the PHA determines that the Owner is not meeting any of these obligations, the PHA shall have the right, in addition to its other rights and remedies under this Contract, to abate housing assistance payments in whole or in part.

b. *Inspection.* (1) Prior to occupancy of any unit by a Family, the Owner and the Family shall inspect the unit and both shall certify, on forms prescribed by the Government, that they have inspected the unit and have determined it to be Decent, Safe, and Sanitary in accordance with the criteria provided in the prescribed forms. Copies of these reports shall be kept on file by the Owner for at least three years.

(2) The PHA shall inspect or cause to be inspected each Contract Unit and related facilities at least annually and at such other times (including prior to initial occupancy and rerenting of any unit) as may be necessary to assure that the Owner is meeting his obligation to maintain the units in Decent, Safe, and Sanitary condition and to provide the agreed upon utilities and other services. The PHA shall take into account complaints by occupants and any other information coming to its attention in scheduling inspections and shall notify the Owner and the Family of its determination.

c. *Units Not Decent, Safe, and Sanitary.* If the PHA notifies the Owner that he has failed to maintain a dwelling unit in Decent, Safe, and Sanitary condition and the Owner fails to take corrective action within the time prescribed in the notice, the PHA may exercise any of its rights or remedies under the Contract, including abatement of housing assistance payments, even if the Family continues to occupy the unit. If, however, the Family wishes to be rehoused in another dwelling unit with section 8 assistance and the PHA does not have other section 8 funds for such purposes, the PHA may use the abated housing assistance payments for the purpose of rehousing the Family in another dwelling unit. Where this is done, the Owner shall be notified that he will be entitled to resumption of housing assistance payments for the vacated dwelling unit if (1) the unit is restored to Decent, Safe, and Sanitary condition, (2) the Family is willing to and does move back into the restored unit, and (3) a deduction is made for the expenses incurred by the Family for both moves.

d. *Notification of Abatement.* Any abatement of housing assistance payments shall be effective as provided in written notification to the Owner. The PHA shall promptly notify the Family of any such abatement.

e. *Overcrowded and Underoccupied Units.* If the PHA determines that a Contract Unit is not Decent, Safe, and Sanitary by reason of increase in Family size, or that a Contract Unit is larger than appropriate for the size of the Family in occupancy, housing assistance payments with respect to such unit will not be abated, unless the Owner fails to offer the Family a suitable unit as soon as one becomes vacant and ready for occupancy. In the case of an overcrowded unit, if the Owner does not have any suitable units or if no vacancy of a suitable unit occurs within a reasonable time, the PHA will assist the Family in finding a suitable dwelling unit and require the Family to move to such a unit as soon as possible. The Owner may receive housing assistance payments for the vacated unit if he complies with the requirements of Section 1.7c(1).

1.9 *Rent Adjustments.*

a. *Funding of Adjustments.* Housing assistance payments will be made in increased amounts commensurate with Contract Rent adjustments under this section, up to the maximum amount authorized under Section 1.6a of this Contract.

b. *Automatic Annual Adjustments.* (1) Automatic Annual Adjustment Factors will be determined by the Government at least annually; interim revisions may be made as market conditions warrant. Such Factors and the basis for their determination will be published in the FEDERAL REGISTER. These published Factors will be reduced appropriately by the Government where utilities are paid directly by the Families.

(2) On each anniversary date of the Contract, the Contract Rents shall be adjusted by applying the applicable Automatic Annual Adjustment Factor most recently published by the Government. Contract Rents may be adjusted upward or downward, as may be appropriate; however, in no case shall the adjusted Contract Rents be less than the Contract Rents on the effective date of the Contract.

c. *Special Additional Adjustments.* Special additional adjustments may be granted, when approved by the Government, to reflect increases in the actual and necessary expenses of owning and maintaining the Contract Units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs (i.e., assessments, and utilities not covered by regulated rates), but only if and to the extent that the Owner clearly demonstrates that such general increases have caused increases in the Owner's operating costs which are not adequately compensated for by automatic annual adjustments. The Owner shall submit to the Government financial statements which clearly support the increase.

d. *Overall Limitation.* Notwithstanding any other provisions of this Contract, adjustments as provided in this section shall not result in material differences between the rents charged for assisted and comparable unassisted units, as determined by the Government.

e. *Incorporation for Rent Adjustment.* Any adjustment in Contract Rents shall be incorporated into Exhibit A by a dated addendum to the exhibit establishing the effective date of the adjustment.

[1] Delete this paragraph unless the project is subject to 24 CFR 880.125.

f.[2] *Adjustment to Reflect Actual Cost of Permanent Financing.* This paragraph f shall apply if the project is not permanently financed until after the effective date of the Contract. After the project is permanently financed, the Financing Agency shall submit a certification to the Government as to the actual financing terms. If the actual debt service under the permanent financing is lower than the anticipated debt service on which the Contract Rents were based, the Contract Rents currently in effect shall be reduced commensurately, and the amount of the savings shall be credited to the Project Account. The Maximum ACC Commitment shall not be reduced. If the actual debt service is higher, the Contract Rents shall not be increased.

1.10 *Marketing and Leasing of Units.*

a. *Compliance with Equal Opportunity.* Marketing of units and selection of Families by the Owner shall be in accordance with the Owner's Government-approved Affirmative Fair Housing Marketing Plan, shown as Exhibit D, and with all regulations relating to fair housing advertising.

b. *Security and Utility Deposits.*

(1) The Owner may require Families to pay a security deposit in an amount equal to one month's Gross Family Contribution. If a Family vacates its unit, the Owner, subject to State and local law, may utilize the deposit as reimbursement for any unpaid rent or other amount owed under the Lease. If the Family has provided a security deposit, and it is insufficient for such reimbursement, the Owner may claim reimbursement from the PHA, not to exceed an amount equal to the remainder of one month's Contract Rent. Any reimbursement under this section shall be applied first toward any unpaid rent. If a Family vacates the unit owing no rent or other amount under the Lease, or if the amount owed is less than the amount of the security deposit, the Owner shall refund the full amount or the unused balance, as the case may be, to the Family.

(2) In those jurisdictions where interest is payable by the Owner on security deposits, the refunded amount shall include the amount of interest payable. All security deposit funds shall be deposited by the Owner in a segregated bank account, and the balance of this account, at all times, shall be equal to the total amount collected from tenants then in occupancy, plus any accrued interest. The Owner shall comply with all State and local laws regarding interest payments on security deposits.

(3) Families shall be expected to obtain the funds to pay security and utility deposits, if required, from their own resources and/or other private or public sources.

c. *Eligibility, Selection and Admission of Families.* (1) The Owner shall be responsible for determination of eligibility of applicants, selection of families from among those determined to be eligible, and computation of the amount of housing assistance payments on behalf of each selected Family in accordance with schedules and criteria established by the Government. In the initial renting of the Contract Units, the Owner shall lease at least 30 percent to Very Low-Income Families (determined in accordance with the Government-established schedules and criteria) and shall thereafter exercise his best efforts to maintain at least 30 percent occupancy of the Contract Units by Very Low-Income Families as determined in accordance with such schedules and criteria.

(2) The Lease entered into between the Owner and each selected Family shall be on the form of Lease approved by the Government.

(3) The Owner shall make a reexamination of Family Income composition, and the extent of medical or other unusual expenses incurred by the Family, at least annually (except that such reviews may be made at intervals of no longer than two years in the case of elderly Families), and appropriate redeterminations shall be made by the Owner of the amount of Family contribution and the amount of housing assistance payment, all in accordance with schedules and criteria established by the Government. In connection with the reexamination, the Owner shall determine what percentage of Families in occupancy are Very Low-Income Families. If there are fewer than 30 percent Very Low-Income Families in occupancy, the Owner shall report the fact to the Government and shall adopt changes in his admission policies to achieve, as soon as possible, at least 30 percent occupancy by such Families.

d. *Rent Redetermination after Adjustment in Allowance for Utilities and Other Services.* In the event that the Owner is notified of a PHA determination making an adjustment in the Allowance for Utilities and Other Services applicable to any of the Contract Units, the Owner shall promptly make a corresponding adjustment in the amount of rent to be paid by the affected Families and the amount of housing assistance payments.

e. *Processing of Applications and Complaints.* The Owner shall process applications for admission, notifications to applicants, and complaints by applicants in accordance with applicable PHA or Government requirements and shall maintain records and furnish such copies or other information as may be required by the PHA or the Government.

f. *Review; Incorrect Payments.* In making housing assistance payments to Owners, the the PHA or the Government will review the Owner's determinations under this section. If as a result of this review, or other reviews, audits or information received by the PHA or the Government at any time, it is determined that the Owner has received improper or excessive housing assistance payments, the PHA or the Government shall have the right to deduct the amount of such overpayments from any amounts otherwise due the Owner, or otherwise effect recovery thereof.

1.11 *Termination of Tenancy.*

The Owner shall be responsible for termination of tenancies, including evictions. However, conditions for payment of housing assistance payments for any resulting vacancies shall be as set forth in Section 1.7c.

1.12 *Reduction of Number of Contract Units for failure to lease to Eligible Families.*

a. *After First Year of Contract.* If at any time, beginning six months after the effective date of this Contract, the Owner fails for a continuous period of six months to have at least 80 percent of the Contract Units leased or available for leasing by Families, the PHA, with Government approval, may on 30 days notice reduce the number of Contract units to not less than the number of units under lease or available for leasing by Families, plus 10 percent of such number if the number is 10 or more, rounded to the next highest number.

b. *At End of Initial and Each Renewal Term.* At the end of the initial term of the Contract and of each renewal term, the PHA, with Government approval, may, by notice to the Owner, reduce the number of Contract Units to not less than (1) the number of units under lease or available for leasing by Families at that time or (2) the average number of units so leased or available for leasing during the last year, whichever is the greater number, plus 10 percent of such number if the number is 10 or more, rounded to the next highest number.

c. *Restoration of Units.* The Government will agree to an amendment of the ACC to provide for subsequent restoration of any reduction made pursuant to paragraph a or b of this Section if the Government determines that the restoration is justified as a result of changes in demand and in the light of the Owner's record of compliance with his obligations under this Contract and if annual contributions contract authority is available; and the Government will take such steps authorized by section 8(c)(6) of the Act as may be necessary to carry out this assurance (See Section 1.6).

WARNING: 18 U.S.C. 101 provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

*Approved:*_____

United States of America, Secretary of Housing and Urban Development,

By: _____

_____

(Official title)

Date:_____, 19__

Owner: _____

By: _____

(Official title)

Date:_____, 19__

PHA: _____

By: _____

(Official title)

Date:_____, 19__

(If the project is to be completed and accepted in stages, execution of the Contract with respect to the several stages appears on the following pages of this Contract.)

EXECUTION OF CONTRACT WITH RESPECT TO CONTRACT UNITS COMPLETED AND ACCEPTED IN STAGES

STAGE 1

This Contract is hereby executed with respect to the units described in Exhibit A–1.

Effective date. The effective date of this Contract with respect to the units described in Exhibit A–1 is _____, 19___. (Insert date which shall be no earlier than the date of approval by the Government.)

*Approved:*_____

United States of America, Secretary of Housing and Urban Development,

By: _____

_____

(Official title)

Date:_____, 19__

Owner: _____

By: _____

(Official title)

Date:_____, 19__

PHA: _____

By: _____

(Official title)

Date:_____, 19__

EXECUTION OF CONTRACT WITH RESPECT TO CONTRACT UNITS COMPLETED AND ACCEPTED IN STAGES

STAGE 2

This Contract is hereby executed with respect to the units described in Exhibit A–2.

Effective date. The effective date of this Contract with respect to the units described in Exhibit A–2 is _____, 19___. (Insert

[2] Delete this paragraph unless the project is subject to 24 CFR, Section 880.125.

date which shall be no earlier than the date of approval by the Government.)

Approved: _____

United States of America, Secretary of Housing and Urban Development,

By: _____

_____

(Official title)

Date: _____, 19__

Owner: _____

By: _____

(Official title)

Date: _____, 19__

PHA: _____

By: _____

(Official title)

Date: _____, 19__

EXECUTION OF CONTRACT WITH RESPECT TO CONTRACT UNITS COMPLETED AND ACCEPTED IN STAGES

STAGE 3

This Contract is hereby executed with respect to the units described in Exhibit A–3.

Effective date. The effective date of this Contract with respect to the units described in Exhibit A–3 is _____, 19__. (Insert date which shall be no earlier than the date of approval by the Government.)

Approved: _____

United States of America, Secretary of Housing and Urban Development,

By: _____

_____

(Official title)

Date: _____, 19__

Owner: _____

By: _____

(Official title)

Date: _____, 19__

PHA: _____

By: _____

(Official title)

Date: _____, 19__

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—HOUSING ASSISTANCE PAYMENTS CONTRACT, NEW CONSTRUCTION, PRIVATE-OWNER/PHA PROJECT

PART II

2.1 *Nondiscrimination in Housing.*

a. The Owner shall not in the selection of Families, in the provision of services, or in any other manner, discriminate against any person on the grounds of race, color, creed, religion, sex, or national origin. No person shall be automatically excluded from participation in, or be denied the benefits of, the Housing Assistance Payments Program because of membership in a class such as unmarried mothers, recipients of public assistance, etc.

b. The Owner shall comply with all requirements imposed by Title VIII of the Civil Rights Act of 1968, and any rules and regulations pursuant thereto.

c. The Owner shall comply with all requirements imposed by Title VI of the Civil Rights Act of 1964, Pub. L. 88–352, 78 Stat. 241; the regulations of the Department of Housing and Urban Development issued thereunder, 24 CFR, Subtitle A, Part 1, Section 1.1, et seq.; the requirements of said Department pursuant to said regulations; and Executive Order 11063 to the end that, in accordance with that Act, the regulations and requirements of said Department thereunder, and said Executive Order, no person in the United States shall, on the grounds of race, color, creed, religion or national origin, be excluded from participation in, or be denied the benefits of, the Housing Assistance Payments Program, or be otherwise subjected to discrimination. This provision is included pursuant to the regulations of the Department of Housing and Urban Development, 24 CFR, Subtitle A, Part 1, Section 1.1, et seq.; issued under Title VI of the said Civil Rights Act of 1964, and the requirements of said Department pursuant to said regulations; and the obligation of the Owner to comply therewith inures to the benefit of the Government, of the said Department, and the PHA, any of which shall be entitled to invoke any remedies available by law to redress any breach thereof or to compel compliance therewith by the Owner.

2.2 *Training Employment, and Contracting Opportunities for Businesses and Lower-Income Persons.*[2]

a. The project assisted under this Contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

b. Notwithstanding any other provision of this Contract, the Owner shall carry out the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135 (published in 38 F.R. 29220, October 23, 1973), and all applicable rules and orders of the Secretary issued thereunder prior to the execution of this Contract. The requirements of said regulations include, but are not limited to, development and implementation of an affirmative action plan for utilizing business concerns located within, or owned in substantial part by persons residing in, the area of the project; the making of a good faith effort, as defined by the regulations, to provide training, employment, and business opportunities required by section 3; and incorporation of the "section 3 clause" specified by § 135.20(b) of the regulations and paragraph d of this Section in all contracts for work in connection with the project. The Owner certifies and agrees that he is under no contractual or other disability which would prevent him from complying with these requirements.

c. Compliance with the provisions of section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Secretary issued thereunder prior to approval by the Government of the application for this Contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the Owner, his successors and assigns. Failure to fulfill these requirements shall subject the Owner, his contractors and subcontractors, his successors, and assigns to the sanction by this Contract, and to such sanctions as are specified by 24 CFR 135.135.

d. The Owner shall incorporate or cause to be incorporated into any contract or subcontract for work pursuant to this Contract in excess of $50,000 cost, the following clause:

EMPLOYMENT OF PROJECT AREA RESIDENTS AND CONTRACTORS

A. The work to be performed under this Contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

B. The parties to this Contract will comply with the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Contract. The parties to this Contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

C. The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

D. The contractor will include this section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontract is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135, and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

E. Compliance with the provisions of section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the Contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR 135.135.

e. The Owner agrees that he will be bound by the above Employment of Project Area Residents and Contractors clause with respect to his own employment practices when he participates in federally assisted work.

2.3 *Cooperation in Equal Opportunity Compliance Reviews.*

The PHA and the Owner shall cooperate with the Government in the conducting of compliance reviews and complaint investigations pursuant to all applicable civil rights statutes, Executive Orders, and rules and regulations pursuant thereto.

2.4 *Flood Insurance.*

If the project is located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards and if the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, the Owner agrees that the project will be covered, during its anticipated economic or useful life, by flood insurance in an amount at least equal to its development or project cost (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of

[2] Strike this Section if the Contract Rents on the effective date of this Contract, over the maximum term of this Contract, are $500,000 or less.

property under the National Flood Insurance Act of 1968, whichever is less.

2.5 *Clean Air Act and Federal Water Pollution Control Act.*[4]

In compliance with regulations issued by the Environmental Protection Agency ("EPA"), 40 CFR Part 15, 39 FR 11099, pursuant to the Clean Air Act, as amended ("Air Act"), 42 U.S.C. 1857, et seq., the Federal Water Pollution Control Act, as amended ("Water Act"), 33 U.S.C. 1251, et seq., and Executive Order 11738, the Owner agrees that:

a. Any facility to be utilized in the performance of this Contract or any subcontract shall not be a facility listed on the EPA List of Violating Facilities pursuant to § 15.20 of said regulations;

b. He will promptly notify the PHA of the receipt of any communication from the EPA indicating that a facility to be utilized for the Contract is under consideration to be listed on the EPA List of Violating Facilities;

c. He will comply with all the requirements of section 114 of the Air Act and section 308 of the Water Act relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in section 114 and section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder; and

d. He will include or cause to be included the provisions of this Section in every nonexempt subcontract, and that he will take such action as the Government may direct as a means of enforcing such provisions.

2.6 *PHA and Government Access to Premises and Owner's Records.*

a. The Owner shall furnish such information and reports pertinent to the Contract as reasonably may be required from time to time by the PHA or the Government.

b. The Owner shall permit the PHA or the Government or any of their duly authorized representatives to have access to the premises and, for the purpose of audit and examination, to have access to any books, documents, papers and records of the Owner that are pertinent to compliance with this Contract, including the verification of information pertinent to the monthly requests for housing assistance payments.

2.7 *Failure or inability of PHA to comply with Contract.*

The following provisions of the ACC are hereby made a part of this Contract:

(a) *Rights of Owner if PHA Defaults Under Agreement or Contract.*

* * * * *

(2) In the event of failure of the PHA to comply with the Contract with the Owner, or if such Contract is held to be void, voidable or ultra vires, or if the power or right of the PHA to enter into such Contract is drawn into question in any legal proceeding, or if the PHA asserts or claims that such Contract is not binding upon the PHA for any such reason, the Government may, after notice to the PHA giving it a reasonable opportunity to take corrective action, determine that the occurrence of any such event constitutes a Substantial Default hereunder. Where the Government so determines, it may assume the PHA's rights and obligations under such Contract, and the Government shall, for the duration of such Contract, continue to pay Annual Contributions for the purpose of making housing assistance payments with respect to dwelling units under such Contract, shall perform the obligations and enforce the rights of the PHA, and shall exercise such other powers as the Government may have to cure the Default.

(3) All rights and obligations of the PHA assumed by the Government pursuant to this Section 2.16(a) will be returned as constituted at the time of such return (i) when the Government is satisfied that all defaults have been cured and that the Project will thereafter be administered in accordance with all applicable requirements, or (ii) when the Housing Assistance Payments Contract is at an end, whichever occurs sooner.

(4) The provisions of this Section 2.16(a) are made with, and for the benefit of, the Owner or his assignees who will have been specifically approved by the Government prior to such assignment. If the Owner and the assignees are not in default, they may, in order to enforce the performance of these provisions, (i) demand that the Government, after notice to the PHA giving it a reasonable opportunity to take corrective action, make a determination whether a Substantial Default exists under paragraph (a)(1) or (a)(2) of this section, (ii) if the Government determines that a Substantial Default exists, demand that the Government take the actions authorized in paragraph (a)(1) or (a)(2) to carry out the obligations of the PHA to the Owner, and (iii) proceed against the Government by suit at law or in equity.

2.8 *Rights of PHA and Government if Owner Defaults.*

a. A default by the Owner under this Contract shall result if:

(1) The Owner has violated or failed to comply with any provision of, or obligation under, this Contract or of any Lease; or

(2) The Owner has asserted or demonstrated an intention not to perform some or all of his obligations under this Contract or under any Lease.

b. Upon a determination by the PHA that a default has occurred, the PHA shall notify the Owner, with a copy to the Government, of (1) the nature of the default, (2) the actions required to be taken and the remedies to be applied on account of the default (including actions by the Owner to cure the default, and, where appropriate, abatement of housing assistance payments in whole or in part and recovery of overpayments), and (3) the time within which the Owner shall respond with a showing that he has taken all the actions required of him. If the Owner fails to respond or take action to the satisfaction of the PHA and the Government, the PHA shall have the right to terminate this Contract in whole or in part or to take other corrective action to achieve compliance, in its discretion or as directed by the Government.

c. (The provisions of this paragraph c shall apply only if the PHA is the lender.) Notwithstanding any other provisions of this Contract, in the event the Government determines that the Owner is in default of his obligations under the Contract, the Government shall have the right, after notice to the Owner and the PHA giving them a reasonable opportunity to take corrective action, to abate or terminate housing assistance payments and recover overpayments in accordance with the terms of the Contract. In the event the Government takes any action under this section, the Owner and the PHA hereby expressly agree to recognize the rights of the Government to the same extent as if the action were taken by the PHA. The Government shall not have the right to terminate the Contract except by proceeding in accordance with Section 2.16(b) of the ACC.

2.9 *Remedies not exclusive and Non-Waiver of Remedies.*

The availability of any remedy under this Contract or the ACC shall not preclude the exercise of any other remedy under this Contract or the ACC or under any provisions of law, nor shall any action taken in the exercise of any remedy be deemed a waiver of any other rights or remedies. Failure to exercise any right or remedy shall not constitute a waiver of the right to exercise that or any other right or remedy at any time.

2.10 *Disputes.*

a. Except as otherwise provided herein, any dispute concerning a question of fact arising under this Contract which is not disposed of by agreement of the PHA and the Owner may be submitted by either party to the Department of Housing and Urban Development field office director who shall make a decision and shall mail or otherwise furnish a written copy thereof to the Owner and the PHA.

b. The decision of the field office director shall be final and conclusive unless, within 30 days from the date of receipt of such copy, either party mails or otherwise furnishes to the Government a written appeal addressed to the Secretary of Housing and Urban Development. The decision of the Secretary or duly authorized representative for the determination of such appeals shall be final and conclusive, unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this Section, the appellant shall be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute hereunder, both parties shall proceed diligently with the performance of the Contract and in accordance with the decision of the field office director.

c. This Section does not preclude consideration of questions of law in connection with the decisions rendered under paragraphs a and b of this section: *Provided, however,* That nothing herein shall be construed as making final the decision of any administrative official, representative, or board, on a question of law.

2.11 *Interest of Members, Officers, or Employees of PHA, Members of Local Governing Body or Other Public Officials.*

No member, officer, or employee of the PHA, no member of the governing body of the locality (city and county) in which the project is situated, no member of the governing body of the locality in which the PHA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this Contract or in any proceeds or benefits arising therefrom.

2.12 *Interest of Member of or Delegate to Congress.*

No member of or delegate to the Congress of the United States of America or resident commissioner shall be admitted to any share or part of this Contract or to any benefits which may arise therefrom.

2.13 *Assignment, Sale, or Foreclosure.*

a. The Owner agrees that he has not made and will not make any sale, assignment, or conveyance or transfer in any other form, of this Contract or the project or any part thereof or any of his interest therein, without the prior consent of the PHA and the Government; *Provided, however,* that in the case of an assignment as security for the purpose of obtaining financing of the project, the PHA and the Government shall consent in writing if the terms of the financing have been approved by the Government. An assignment by the Owner to a limited partnership of which the Owner is the sole gen-

[4] Strike this section if the Contract Rents on the effective date of this Contract, over the maximum total term of this Contract, are $100,000 or less.

eral partner shall not be considered an assignment herein.

b. The Owner agrees to notify the PHA and the Government promptly of any proposed action covered by paragraph a of this section. The Owner further agrees to request the written consent of the PHA and the Government in regard thereto, except in the case of an assignment as security as provided in paragraph a of this section.

c. For the purpose of this Section, a transfer of stock in the Owner in whole or in part, by a party holding ten percent or more of the stock of said Owner, or a transfer by more than one stockholder or the Owner of ten percent or more of the stock of said Owner, or any other similarly significant change in the ownership of such stock or in the relative distribution thereof, or with respect to the parties in control of the Owner or the degree thereof, by any other method or means, whether by increased capitalization, merger with another corporation, corporate or other amendments, issuance of new or additional stock or classification of stock or otherwise, shall be deemed an assignment, conveyance, or transfer with respect to this Contract or the project. With respect to this provision, the Owner and the party signing this Contract on behalf of said Owner, represent that they have the authority of all of the existing stockholders of the Owner to agree to this provision on behalf of said stockholders and to bind them with respect thereto.

d. In the event of foreclosure, including foreclosure by the Government, and in the event of assignment or sale agreed to by the Government or made to the Government, housing assistance payments shall continue in accordance with the terms of the Contract.

(If the project is subject to 24 CFR 880.125, paragraph d above shall be stricken and the following shall be used instead:

d. In the event of foreclosure, or assignment or sale to the financing agency in lieu of foreclosure, or in the event of assignment or sale agreed to by the financing agency and approved by the Government (which approval shall not be unreasonably delayed or withheld), housing assistance payments shall continue in accordance with the terms of the Contract.)

DAVID M. DEWILDE,
Acting Assistant Secretary for Housing Production and Mortgage Credit—FHA Commissioner.

[FR Doc.75-11116 Filed 4-28-75;8:45 am]

federal register

TUESDAY, APRIL 29, 1975
WASHINGTON, D.C.
Volume 40 ■ Number 83
PART III

ENVIRONMENTAL PROTECTION AGENCY

■

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Air Quality Standards

TITLE 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

SUBCHAPTER C—AIR PROGRAMS

[FRL 341-1]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Maintenance of National Ambient Air Quality Standards

On July 10, 1974, the Administrator proposed in the FEDERAL REGISTER (39 FR 25330), a list of areas that have the potential for violation of specified national ambient air quality standards by 1985 for all States except those in EPA's Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin). In the FEDERAL REGISTER of August 12, 1974 (39 FR 28906), the Administrator proposed a similar list for the Region V States. The identification of these "air quality maintenance areas" (AQMAs) is required under 40 CFR 51.12 (e) and (f), published in the FEDERAL REGISTER of June 18, 1973 (38 FR 15834) and subsequently amended on May 8, 1974 (39 FR 16343). The preamble to the July 10, 1974, proposal contains detailed background information concerning the Administrator's proposed identification of these areas and their relationship to the implementation planning process; the reader is referred to that preamble for this information.

The action below presents the final identification of AQMAs for the States of Alabama, Alaska, Georgia, Hawaii, Idaho, Louisiana, Maine, Mississippi, North Carolina, Oklahoma, Oregon, Rhode Island, South Carolina, Texas, Vermont, and Washington, and for Guam, Puerto Rico, Virgin Islands, and American Samoa. Also, this action presents a partial AQMA list for Iowa.

The Administrator is taking the following actions on these States: (a) Approval of the supplemental information that the States submitted to the Administrator under 40 CFR 51.12(e) and which the Administrator has determined to be adequate and in accordance with EPA's Guidelines for Designation of Air Quality Maintenance Areas, which information contains either the list of areas identified by the States or a justification why there are no such areas.

(b) Disapproval of plans for which States did not submit adequate supplemental information containing either a list of areas identified pursuant to 40 CFR 51.12(e) or a justification why there are no such areas.

(c) Identification of areas that have the potential for violation of a national standard by 1985. In some cases, such identifications include, where applicable, the Administrator's own area identification, in addition to the areas identified by the States and approved by the Administrator. Where the Administrator disapproves a State's plan because of an inadequate submittal, the Administrator either identifies AQMAs or indicates that there are no such areas under 40 CFR 51.12 (e) and (f).

The Administrator is reviewing the AQMA lists submitted by the other States and will publish lists for those States at a later time, along with the remainder of the AQMAs for Iowa. These AQMA lists are being published later than the August 16, 1974, date for publication specified in the May 8, 1974, FEDERAL REGISTER notice referred to above because the task of area identification provided to be more difficult and time-consuming than had previously been anticipated. The Administrator regrets the delay but believes that a more appropriate list of AQMAs will result from the additional time and effort expended.

For the areas identified by the Administrator under 40 CFR 51.12 (e) and (f), the States are required to submit a detailed analysis of the impact on air quality of projected growth. Where the analysis indicates that the national air quality standards will not be maintained, the States must also submit plans containing measures to ensure maintenance of national standards during the ensuing 10-year period. The AQMA identification-analysis-plan development procedure must be repeated at least every 5 years to ensure continuing maintenance of national standards.

The Administrator has prepared and distributed to the States the available volumes in a series of guidelines to assist the States in identifying AQMAs, performing their AQMA analyses, and developing their AQMA plans. These are the Guidelines for Air Quality Maintenance Planning and Analysis. The constituent volumes include:

Volume 1—Designation of Air Quality Maintenance Areas (Revised)
Volume 2—Plan Preparation
Volume 3—Control Strategies
Volume 4—Land Use and Transportation Considerations
Volume 5—Case Studies in Plan Development
Volume 6—Overview of Air Quality Maintenance Area Analysis
Volume 7—Projecting County Emissions
Volume 8—Computer-Assisted Area Source Emissions Gridding Procedure
Volume 9—Evaluating Indirect Sources
Volume 10—Reviewing New Stationary Sources
Volume 11—Air Quality Monitoring and Data Analysis
Volume 12—Applying Atmospheric Simulation Models to Air Quality Maintenance Areas
Volume 13—Allocating Projected Emissions to Sub-County Areas.

EPA issued an earlier version of Volume 1 to the States in January 1974; the revised version merely incorporates the errata and supplments to the earlier version. This document describes techniques for the States to use in identifying potential problem areas. Additional volumes in this guidelines series may be issued as the need arises. The Guidelines documents may be inspected at any of EPA's Regional Offices and at the Freedom of Information Center, EPA, 401 M Street SW., Washington, D.C. 20460. The documents can also be obtained for a nominal fee from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22151. The Administrator will propose revisions to 40 CFR Part 51 concerning the detailed requirements for preparation, adoption, and submission of AQMA analyses and plans at a later time.

All States were required, prior to the submission of identified areas, to conduct one or more public hearings on the AQMA identification and technical supporting material. Where a State held no such hearing, the Administrator has held a hearing on this matter.

In addition to soliciting public comment on the list of proposed AQMAs, the Administrator, acting through his Regional Administrators, forwarded a copy of the proposed AQMA list to the Governors of States for which AQMAs were proposed under Office of Management and Budget's (OMB) Circular A-95, Part IV (published in the FEDERAL REGISTER of November 28, 1973, 38 FR 32874) which requires that:

> Prior to the designation or redesignation (or approval thereof) of any planning and development district or region under any Federal program, Federal agency procedures will provide a period of 30 days for the Governor(s) of the State(s) in which the district or region will be located to review the boundaries thereof and comment upon its relationship to planning and development districts or regions established by the State.

Frequently, the boundaries of AQMAs will not conform to sub-State planning and development districts because of the general lack of confinement of air pollution problems to such districts.

INTERSTATE AQMAS

EPA's Guidelines for Designation of Air Quality Maintenance Areas state:

> The AQMA should include all of the territory which shares a common air envelope and a common aggregation of sources. This will usually be an urbanized area plus some adjoining areas which are now undeveloped but which are expected to develop in the next 10 years or so. It may include satellite communities which are now separated from the central urbanized area but will, in 10-20 years, become part of the central urbanized area and thus share the air resource.

If an "air envelope" that has the potential for failing to maintain a national standard within 10 years is an interstate area, the Administrator has designated the area as an "interstate AQMA." Under the forthcoming proposed air quality maintenance requirements in 40 CFR 51, the agency responsible for implementing national standards in any portion of an interstate AQMA would have to furnish any available data (with the exception of confidential source-specific parameters) on emissions, air quality, control strategy development, growth projections, and AQMA plan development to other State or local agencies having similar responsibilities in other portions of the AQMA.

COMMENTS ON PROPOSED AQMA DESIGNATION

Under the description of actions being taken on individual States below, the Administrator indicates the nature of comments received and provides a response. The Natural Resources Defense Council, Inc. (NRDC), commented about aspects of EPA's air quality maintenance program that are not specific to individual States, however, so the Administrator will respond to these comments separately.

First, NRDC criticized the basic approach of 40 CFR 51.12, which requires that new maintenance measures be developed only in those areas designated as AQMAs. NRDC argued that such a scheme would violate section 107 of the Clean Air Act, which requires that each State have a plan that provides for maintenance "within each air quality control region in such State."

The scheme of 40 CFR 51.12 is fully consistent with section 107. The new measures that will be developed in accordance with the AQMA plan process will be supplements to implementation plans that already have State-wide measures designed to assist in ensuring air quality maintenance. Every plan is required to have stationary and indirect source review regulations which are applicable on a State-wide basis. Both the Federal Motor Vehicle Control Program and the New Source Performance Standards will also help ensure maintenance of the ambient standards throughout each State. The approach of requiring supplemental maintenance measures only for those areas that have been analyzed to have the potential for violating the standards is, in the Administrator's judgment, entirely rational and fully defensible from a legal viewpoint. The Administrator recognizes that air pollution control agencies have limited financial and manpower resources and does not feel it would be prudent to divert such resources from critical areas to areas that have only remotely possible problems.

NRDC also criticized the emphasis on analysis of Standard Metropolitan Statistical Areas (SMSAs) contained in EPA's Guidelines for Designation of Air Quality Maintenance Areas. NRDC pointed out that non-SMSA areas may also present a potential for violating the standards.

It was not EPA's intent to foreclose the consideration of non-SMSAs. EPA emphasized SMSA analysis in the Guidelines under the assumption that in the lesser-developed areas of the country, the maintenance provisions that are applicable State-wide (such as the new source review procedures and the others mentioned above) would generally suffice. It was therefore EPA's intent that SMSAs be considered as a minimum.

Since States may not have fully considered non-SMSA areas in the designation process, however, the Administrator intends to propose, in amendments to 40 CFR 51 concerning air quality maintenance, an additional requirement that each State plan contain a procedure for monitoring land development in all areas of the State. When an area has undergone or is expected to undergo an amount of growth to the extent that the area has the potential for violation of a standard over the subsequent 10-year period, the State would then be required to designate the area as an AQMA. When the Administrator officially publishes the area as an AQMA, the area would then be subject to the air quality maintenance requirements for analysis and plan development under § 51.12. All areas of the State, AQMAs as well as non-AQMA areas, would be subject to the proposed development monitoring regulations since a significant amount of development in an AQMA might jeopardize a standard for a pollutant for which that AQMA was not designated. The Administrator will develop guidance that States may follow in establishing such a procedure.

Finally, whenever the Administrator discovers that any area of a State fails to maintain an air quality standard after attainment, he will call for a plan revision to include whatever additional measures as may be necessary to ensure maintenance of the standards.

The proposed regulations would also require a procedure to monitor continuously, for each area of the State (possibly by county), parameters that are indicative of growth and development such as population, housing and building starts, employment, and earnings. For States that already have their own system for tracking various kinds of development, the Administrator encourages those States to incorporate their systems into the proposed development tracking procedure.

The Administrator wishes to emphasize that this proposed new requirement for tracking growth and development will not require any kind of permit system. It would not be intended as a system to conduct pre-construction review of individual developments but merely as a device to be used to refine the designation of AQMAs. The Administrator will invite comments on this requirement at the time he proposes it.

NRDC also contends that the 10-year analysis period required under 40 CFR 51.12 is arbitrary and inadequate and that EPA should require detailed projections of anticipated activity over a minimum of 20 years. At present, there are limitations in accuracy inherent in projecting emissions and air quality. Thus it is the Administrator's judgment that a 10-year analysis and planning period should be the minimum requirement for AQMAs, at least until more accurate emission and air quality projection techniques are developed that would make longer projection periods more feasible. The Administrator encourages States to consider in their AQMA analyses and plans the effects of development over periods longer than 10 years if adequate data concerning such development is available and of a sufficient reliability and if there is a reasonable degree of confidence in the techniques used to project emissions and air quality.

NRDC alleges that the initial exclusion criteria for carbon monoxide and photochemical oxidants in EPA's Guidelines for Designation of Air Quality Maintenance Areas excuse any area from developing a maintenance plan merely upon a showing that the standards for these pollutants will be attained by 1985, although the Clean Air Act requires attainment no later than 1975 or, with a two-year extension, 1977.

Both the CO and the oxidant exclusion criteria were based on the assumption that the existing State implementation plans, including the transportation control strategies, would be sufficient to attain the national ambient air quality standards by at least 1977. This assumption, although implicit, was not actually stated in the Guidelines document. Any growth in vehicle usage between 1977 and 1985 would then be countered by the replacement of older vehicles by newer vehicles that would meet the Federal motor vehicle emission control standards of section 202 of the Clean Air Act. Where it is shown that a plan is unable to attain the air quality standards by the attainment date, EPA may call for a plan revision under section 110(a)(2)(H) of the Clean Air Act calling for such measures as may be necessary to ensure the attainment and maintenance of the national standards.

NRDC also questions the representativeness of automobile emission factors used in the Guidelines for Designation of Air Quality Maintenance Areas. The initial designation criteria and the methods used to project emissions made use of the automobile emission factors in Compilation of Air Pollution Emission Factors (EPA document AP-42, Second Edition, April 1973). Data from EPA's testing of in-use vehicles indicate that the CO emission rates from 1972 model year vehicles are higher than emissions predicted by AP-42.[1] The data presented in the Guidelines document were the best available to EPA at that time; the data from EPA's testing program were not available at the time of publication of the Guidelines document because the test program was incomplete.

NRDC referred to vehicle emission data from 1972-1974 model years gathered in Houston, Texas, as indicative of actually measured emission rates versus rates predicted by AP-42. The data to which NRDC referred, however, was raw data and, as yet, unverified as to accuracy. Vehicles from five other cities besides Houston were tested in this testing program, and only a relatively small population of vehicles were tested in each. Furthermore, the data from three of the six cities has not yet been summarized. Because of these uncertainties, it is the Administrator's position that it is not statistically valid to draw even tentative conclusions at this time regarding emissions for an entire class of vehicles from the results in one test city. Where the Administrator discovers that a substantial number of any class or category of vehicles or engines do not conform to EPA's emission limitations, he may notify the manufacturer of those vehicles of the nonconformity and require the manufacturer to submit a plan to correct the nonconformity under the terms provided in section 207(c) of the Act.

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[1] Williams, Marcia E., et al. Automobile Exhaust Emission Surveillance-Analysis of the FY 72 Program. U.S. Environmental Protection Agency, Office of Air and Water Programs, Office of Mobile Source Air Pollution Control, Certification and Surveillance Division, Ann Arbor, Michigan 48105. February 1974. (EPA-460/2-74-001.)

NRDC also argued that tampering with automobile emission control devices and the use of "defeat devices" (which inactivate emission control systems in cold weather) were not taken into account and therefore AP–42 emission factors would further underestimate future automobile emissions. EPA is revising AP–42 concerning highway vehicle emissions. A draft copy of preliminary revisions has been circulated to EPA's Regional Offices and State air pollution control agencies. The revisions reflect not only results of in-use vehicle test programs but also data on catalyst-equipped vehicles (prototype and certification vehicles). Although the results to be published in AP–42 do not reflect effects due to "defeat devices," they do reflect "tampering" with control systems of in-use vehicles. Ford Motor Company, the only automobile manufacturer that employed such devices, stopped using those devices two-thirds of the way through their 1973 production year. It is the Administrator's judgement that the increase in emissions from the total motor vehicle population due to the defeat devices is not significant.

NRDC argued that motor vehicle emission factors in AP–42, which are based on the federal emission test procedure, fail to account for problems in locations where "cold-starts" of vehicles predominate, such as center-city streets in the afternoon rush hours. NRDC states that the cold-start effect is exacerbated by the low ambient temperatures experienced during winter in many major cities and that the federal test procedure ignores such temperatures, resulting in an underestimation of emissions in downtown areas that experience such low temperatures. It is true that the emission factors do not reflect the impact of low ambient temperature cold start emissions. They do, however, reflect cold starts at higher ambient temperatures, since they are based on results of the federal test procedures,[3] and thus are not as inaccurate as NRDC implies. The Administrator has been aware of the impact of variation in ambient temperature on the magnitude and duration of cold-start emissions. Assessing this problem is not simple since the trend toward fast-acting chokes and uncertainty in designs of future engines can substantially alter the problem's impact. EPA is currently analyzing emission data on cold starts at low ambient temperatures and will incorporate such data into AP–42 at the conclusion of this analysis.

Also, the current version of AP–42 does not account for the fact that emission standards for carbon monoxide and hydrocarbons have been suspended for another two years: one year (to 1977) as a result of the enactment of the Energy Supply and Environmental Coordination Act (ESECA) of 1974 and another year (to 1978) as a result of the Administrator's granting of a discretionary suspension, which is permitted under ESECA. EPA is revising AP–42 to account for these delays.

The emission factors that will appear in the revised AP–42 include the most reliable data currently available on deterioration of emission control devices. For future model year vehicles, the determination of the effect of deterioration still requires estimation, since the gathering of truly representative deterioration data requires a statistically developed test program of in-use vehicles. This is obviously impossible to do for vehicles that have not yet been designed, let alone manufactured.

The Administrator expects the States to use the revised AP–42 emission factors, when available, for the development of AQMA analyses and plans. The revised emission factors are also to be used for developing analyses and, where necessary, plans for areas that are designated as AQMAs by the Administrator in the future.

The Administrator does not intend the AQMA identifications below to be irrevocable. New air quality data, changes in emission factors resulting from suspensions of automobile emission standards, better emission projection techniques, and other factors may cause the Administrator to require the States to re-evaluate the identified AQMAs and other areas. Such re-evaluation may lead to additions or deletions of areas or pollutants or changes in area boundaries.

Summary of State Actions

The Administrator is taking action on 21 State plans in the rulemaking below. He is approving 14 State plans under the air quality maintenance provisions of 40 CFR 51.12(e) and disapproving 3. The action does not affect 4 plans in States without SMSAs, and the Administrator does not identify any AQMAs in these 4 States. A total of 43 AQMAs are being identified for at least one pollutant. Of these, 39 are identified for particulate matter, 14 for sulfur dioxide, 3 for carbon monoxide, 11 for photochemical oxidants, and none for nitrogen dioxide.

A discussion of specific actions relating to each State is presented below.

Alabama

On April 4, 1974, the Administrator received a report from the Alabama Air Pollution Control Commission identifying three areas in the State—Birmingham, Gadsden and Mobile—as AQMAs. A public hearing on the contents of the report was held by the State in Montgomery on May 8, 1974, and the Alabama Air Pollution Control Commission, Division of Air Pollution Control, officially submitted their identifications on June 17, 1974. The Administrator proposed a list of AQMAs in the Federal Register of July 10, 1974 (39 FR 25330). No comments were received on this proposal. EPA has reviewed the materials submitted by the State and is approving the identifications as submitted.

The State submission and EPA's technical support documentation may be inspected at the office of the Alabama Air Pollution Control Commission, 645 South McDonough Street, Montgomery, Alabama 36104, and at the office of EPA Region IV, 1421 Peachtree, St. NE., Atlanta, Georgia 30309.

Information as to other locations in the State where the report may be reviewed is available from both of the above offices.

Alaska

The State of Alaska did not provide information to the Administrator for the identification of AQMAs in Alaska. Therefore, EPA carried out the necessary analysis; no areas with a potential for exceeding national ambient air quality standards were identified. EPA held a public hearing on July 17, 1974, in Anchorage, Alaska, at which time EPA's proposal not to designate any AQMAs was discussed. No public comments were received either as a result of the public hearing or the notice of proposed rulemaking published on July 10, 1974 (39 FR 25330).

EPA's analysis of emission data and growth factors for the Anchorage Standard Metropolitan Statistical Area and the Fairbanks, Alaska, urban area indicated that particulate standards may be exceeded in 1985, but only because of fugitive dust from natural sources. Carbon monoxide standards in Fairbanks are expected to be maintained if the federally promulgated transportation control plan is implemented because the Federal Motor Vehicle Emission Control Program is expected to more than offset any growth in emissions due to growth in vehicle-miles travelled. After discounting the effects of fugitive dust and taking account of the anticipated impact of the control strategy for achieving the secondary particulate standard, the Administrator has determined that additional maintenance provisions for the Alaska implementation plan will not be necessary at this time. Technical support material relevant to this determination is available for public inspection at the EPA, Region X Office, 1200 Sixth Avenue, Seattle, Washington 98108.

Georgia

On May 17, 1974, the Administrator received the official AQMA identification material for the State of Georgia from the Georgia Department of Natural Resources, Environmental Protection Division. The Atlanta and Savannah areas were identified as AQMAs. A public hearing on this material was held by the State in Atlanta on April 25, 1974.

In the Federal Register of July 10, 1974 (39 FR 25330), the Administrator identified as AQMAs not only those areas identified by the State, but also Catoosa and Walker Counties as part of the Chattanooga Interstate AQMA. No comments were received on this proposal. EPA has reviewed all AQMA identification materials and is approving the identifications as submitted, and is also identifying the Georgia portion of the Chattanooga Interstate area as discussed above.

The State submission and EPA's technical support documentation on which these identifications are based, are available for public inspection at the office of the Air Quality Control Section, En-

[3] 40 CFR Part 85—Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines.

vironmental Protection Division, Georgia Department of Natural Resources, 19 Hunter Street, S.W., Atlanta, Georgia 30334, and at the office of EPA Region IV, 1421 Peachtree St. NE., Atlanta, Georgia 30309.

Information as to other locations where the designation material may be reviewed is available from both of the above offices.

HAWAII

The State of Hawaii has taken no action to identify AQMAs, and therefore, the Administrator, based on an analysis performed according to the Guidelines for Designation of Air Quality Maintenance Areas, proposed the identification of the City and County of Honolulu as an AQMA for particulate matter in the FEDERAL REGISTER of July 10, 1974 (39 FR 25330).

A public hearing was conducted by EPA on the proposed identifications on August 20, 1974 in Honolulu. Testimony was presented that questioned the growth factors used by EPA to project emissions of particulate matter. Growth factors based on a source-by-source study of emissions were presented that indicated a lower growth rate. These growth factors have been accepted by EPA as superior to the Bureau of Economic Analysis projection parameters used by EPA in making the original analysis. A recalculation of the projected ambient particulate concentration for 1985, using the lower growth factors presented at the public hearing, indicates that the national ambient air quality standards will be maintained through 1985. On the basis of this determination, the Administrator does not identify any AQMAs in Hawaii. Copies of the hearing record and the technical support document are available for inspection during normal business hours at the Office of EPA, Region IX, located at 100 California Street, San Francisco, California 94111, and the Pacific Islands Office, U.S. EPA, 1000 Bishop Street, Suite 601, Honolulu, Hawaii 96813.

IDAHO

The State of Idaho determined that there were no areas within the State with a potential for exceeding national ambient air quality standards through 1985. The State analysis of emissions data and growth factors indicated that particulate standards may be exceeded in 1985, but this would be due to fugitive dust from natural sources. After discounting the effects of natural fugitive dust and taking account of the anticipated impact of the existing programmed control strategy for achieving the secondary particulate standard, the State determined that additional maintenance provisions for the Idaho implementation plan will not be necessary at this time; hence no AQMAs were proposed for designation by the State.

The States' findings were subject to a public hearing on June 3, 1974, in Boise, Idaho. The State's recommendations were submitted to EPA on June 11, 1974 by the Idaho Department of Environmental and Community Services. No public comments were received either as a result of the State public hearing or the Federal notice of proposed rulemaking published on July 10, 1974 (39 FR 25330).

EPA has reviewed the State submittal and concurs with the State analysis. Documentation of this review and concurrence is presented in technical support material available for public inspection at the EPA, Region X Office, 1200 Sixth Avenue, Seattle, Washington 98108.

IOWA

On June 7, 1974, the Administrator received AQMA identification material for the State of Iowa from the Governor's Office. A public hearing was held by the State in Des Moines on April 24, 1974.

The Administrator proposed to approve the State's identification on July 10, 1974 (39 FR 25330). Copies of the identification material were made available for public inspection at EPA's regional office in Kansas City, Missouri, and at the office of the Iowa Department of Environmental Quality (DEQ) in Des Moines, Iowa.

Written comments were solicited from the public. One comment submitted stated that Polk County, which contains Des Moines, should not be identified as an AQMA for carbon monoxide. This comment was based on the conclusion that quantitative estimates of air quality based on the Guidelines for Designation of Air Quality Maintenance Areas were below the air quality standards. The State identification material agreed with this conclusion; however, the DEQ did not believe that certain growth factors were adequately taken into account in the methods presented in the guidelines. Upon identification of Polk County for CO, the DEQ will conduct more detailed projects of ambient air quality to determine if a problem exists. If further analysis indicates that the ambient air quality standard for carbon monoxide will be maintained, then no plan will be developed pursuant to 40 CFR 51.12(g).

Another comment stated that the AQMAs proposed for identification do not fit the State-established planning and development districts. However, as was noted in that comment, Part IV of OMB Circular A-95 allows for the provision of clear justification for not conforming to State designated planning and development districts. The fact that air pollution problems are by nature not confined to specific areas clearly justifies not identifying these AQMAs in conformity with sub-State planning and developing districts.

After review of the State's submittal, the Administrator is hereby approving the State's identification of three areas in the State as AQMAs.

The identifications of Council Bluffs, Davenport and Dubuque as potential interstate AQMAs are being withheld temporarily pending further review of adjacent areas in the bordering states. The State submittal and EPA's technical support documentation are available for public inspection at the office of the Iowa Department of Environmental Quality, 3920 Delaware Avenue, P.O. Box 3326, Des Moines, Iowa 50316, and at the office of EPA, Region VII, 1735 Baltimore Avenue, Kansas City, Missouri 64108.

LOUISIANA

The State of Louisiana did not submit a list of identified AQMAs to EPA. The Louisiana Air Control Commission held public hearings in Lake Charles, Baton Rouge, and New Orleans during the period of June 4–6, 1974. On June 6, 1974, the Commission concluded that no air quality maintenance areas would be identified. This action reportedly was based on an analysis which covered air sampling data, growth factors, compliance schedule improvements, and other related factors. Because no official submission of AQMA material was made under § 51.12(e) of this chapter, the Administrator is disapproving the State plan.

Consequently, EPA made an analysis of the SMSAs in Louisiana in accordance with the guidelines for designation and proposed identification of three areas in the FEDERAL REGISTER of July 10, 1974 (39 FR 25330). The Baton Rouge and New Orleans areas were proposed for photochemical oxidants on the basis of high oxidant concentrations, projected growth to 1985, and indications that there was significant transport of oxidants between the two areas. The Shreveport area was proposed for particulate matter on the basis of concentrations exceeding a national standard in 1972 and the projection that such standard would be exceeded also in 1985.

A public hearing was held by EPA in New Orleans on August 15, 1974. Testimony was presented that questioned the identification of the Shreveport area as an AQMA. High particulate readings from one air sampler were said to be affected unduly by a municipal incinerator located nearby. However, when an older unit at this incinerator was shut down, particulate concentrations were still sufficiently high that the annual primary and secondary standards were exceeded for 1974 through August. New emissions data submitted by the State were not sufficiently complete to be useful in new projections. Thus, the identification of the Shreveport area for particulate matter is made in this promulgation. The comprehensive analysis to follow should allow the State to determine the main sources of particulate matter and the control strategies available to bring concentrations within the secondary standard during the 1975–1985 period.

Following the hearing, the State submitted revised emissions data on hydrocarbons for the Baton Rouge and New Orleans areas. Ambient air quality data on oxidants previously submitted by the State, which had been used by EPA in its projections, were found to be invalid by the State. Also, testimony by the State indicated that high oxidant readings in neither of these cities are associated with wind direction from the other. The revised emissions and ambient data have

now been utilized by EPA in making another analysis of these areas with reference to photochemical oxidants. In EPA's judgment identification for oxidants is not required for each area.

EPA has carefully reviewed its analysis, the record of the public hearing of August 15, and all comments sent directly to the Regional Office. All of these have been evaluated and considered in making the official identification herein.

The analysis and submittal of the State, as well as EPA's technical support documentation are available for inspection during normal business hours at the U.S. Environmental Protection Agency, Region VI, Air Program Branch, 1600 Patterson Street, Dallas, Texas 75201 and at the Louisiana Health and Human Resources Administration, Air Control Division, State Office Building, New Orleans, Louisiana 70160. A copy of the transcript of the public hearing held by EPA, and other comments received, are also available for inspection at the U.S. EPA Region VI Office.

MAINE

On April 16, 1974, the Administrator received from Maine an unofficial submittal indicating that the Portland and Lewiston-Auburn SMSAs were evaluated following the EPA guidelines and that no potential violation of a national ambient air quality standard within the next 10 year period was found. The Governor of Maine officially submitted an AQMA proposal on June 26, 1974, which was substantially unchanged from the unofficial submittal of April 16, 1974. Because Maine did not formally submit this material to EPA in time for the publication on July 10, 1974, of the proposed list of AQMAs, the Administrator proceeded with his own evaluation of the two areas. As a result of the Administrator's evaluation, the list of AQMAs proposed in the FEDERAL REGISTER of July 10, 1974 (39 FR 25330), also indicated no need for AQMA designation for Maine. No comments were received pertaining to that proposed rulemaking. Therefore, the Administrator is not identifying any areas as AQMAs in the State of Maine. The State submittal and the technical support documentation upon which this action is based are available for public inspection during normal business hours at the Department of Environmental Protection, Bureau of Air Quality Control, Vickery-Hill Building, Chapel Street, Augusta, Maine 04330, and the offices of EPA, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203.

MISSISSIPPI

On March 14, 1974, the Administrator received AQMA identification material from the Mississippi Air and Water Pollution Control Commission, Division of Air Pollution Control. A public hearing was held by the State in Jackson on April 25, 1974. The State evaluated the Jackson, Gulfport and Biloxi areas and determined that none of these areas present the potential for a violation of a national ambient air quality standard within 10 years. The Administrator proposed that no AQMAs should be identified for Mississippi in the FEDERAL REGISTER of July 10, 1974 (39 FR 25330). In the one comment received during the 30-day comment period, the Governor concurred in the proposal to not identify any AQMAs in the State. EPA has reviewed the identification material and is approving the material as submitted.

The State submittal and EPA's technical support documentation on which this action is based are available for public inspection at the office of the Division of Air Pollution Control, Mississippi Air and Water Pollution Control Commission, Robert E. Lee Building, Sixth Floor, E. Griffith and N. Lamar Streets, Jackson, Mississippi 39205, and at the office of EPA Region IV, 1421 Peachtree St., N.E., Atlanta, Georgia 30309.

Information as to other locations where the designation material may be reviewed is available from both of the above offices.

NORTH CAROLINA

On April 1, 1974, the Administrator received AQMA identification material for the State of North Carolina from the North Carolina Department of Natural and Economic Resources, Division of Environmental Management, proposing to identify the Asheville, Charlotte-Gastonia, Greensboro, Raleigh-Durham, and Winston-Salem areas as AQMAs. A public hearing was held by the State in Raleigh on March 20, 1974. The Administrator proposed the State-submitted list of AQMAs in the FEDERAL REGISTER of July 10, 1974 (39 FR 25330). In the one comment received, the Governor indicated that Durham County was inadvertently omitted from the proposed identifications although the State submittal indicated that Durham County should have been included.

On November 22, 1974, the North Carolina Department of Natural and Economic Resources, Division of Environmental Management, submitted additional material deleting the Asheville and Raleigh-Durham AQMAs and removing Gaston County from the Charlotte-Gastonia AQMA (which is now being called the Charlotte AQMA). In EPA's judgment these deletions are justified because monitoring data originally used for AQMA identification were unduly influenced by major sources that will be controlled. Recalculation of projected air quality indicates that 1985 concentrations in these areas will not violate the national ambient air quality standards. The Administrator is approving the identifications as submitted and modified by the State.

The State submittals and technical support documentation on which this action is based are available for public inspection at the office of the Division of Environmental Management, North Carolina Department of Natural and Economic Resources, Post Office Box 27687, 216 West Jones Street, Raleigh, North Carolina 27611, and at the office of EPA Region IV, 1421 Peachtree St., NE., Atlanta, Georgia 30309.

Information as to other locations where the identification material may be reviewed is available from both of the above offices.

OKLAHOMA

The State of Oklahoma did not submit to the EPA a formal list of AQMA identifications prior to the July 10, 1974 (39 FR 25330), proposal. However, the July 10, 1974, action proposed AQMAs which were under consideration by Oklahoma. Oklahoma held hearings for AQMA designations in Tulsa on May 21, 1974, and in Oklahoma City on May 31, 1974.

The only comment received in the Regional office on the EPA-proposed identifications of AQMAs in Oklahoma was from the Association of Central Oklahoma Governments (ACOG). This comment expressed continuing support for identification of the area of the Central Oklahoma AQMA as presented by the State at the public hearing in Oklahoma City on May 31, 1974, namely, the modified area of the "central urban boundary," as defined by ACOG. The position of ACOG on this point was emphasized to the State at the public hearing. Because of the irregular and complex boundaries involved, and the lengthy legal description, EPA proposed an area with more regular boundaries, which presumably would facilitate the required analysis of air quality and expected growth in the area; EPA is identifying this area as proposed.

On July 30, 1974, the Governor of Oklahoma notified EPA of his concurrence with the identification of the Tulsa AQMA and the Central Oklahoma AQMA as proposed by EPA, with two exceptions. The first of these originated from the fact that the Oklahoma State Department of Health had performed an extensive review of air quality data for the Central Oklahoma Air Quality Control Region (which includes the proposed Central Oklahoma AQMA) and had found no violations of national ambient air quality standards for SO_2 in 1972. The original data used by the State in its submittal was apparently in error. A subsequent analysis performed by Oklahoma to project SO_2 concentrations for 1985, using the correct air quality values, indicated that the air quality standards for SO_2 would not be exceeded through 1985. The second exception consisted of correcting a clerical error in the description of the Central Oklahoma AQMA which resulted in only a part of the City of Norman being included. After an investigation of the validity of these two exceptions, EPA has, in the action below identified AQMAs differently from the July 10, 1974, proposal to take account of these comments.

The Governor's July 30, 1974, communication constituted an official submittal of identifications of AQMAs by Oklahoma. In view of this, a public hearing on the proposed identifications, which had been scheduled to be held by EPA in Oklahoma City, was cancelled. It is the Administrator's determination that the State has followed proper procedures in making its submittal, and the two State hearings met the requirements

to provide opportunity for public comment.

The Environmental Protection Agency has carefully reviewed the identifications of AQMAs as submitted by the State of Oklahoma and has prepared its own analysis. All comments made at the State public hearings as well as that submitted directly to the Regional Office have been evaluated and considered in making the official identifications herein. The Administrator is approving the State submittal and providing an official list of AQMAs for Oklahoma. The analysis and submittal of the State, as well as EPA's technical support documentation, are available for inspection at the U.S. Environmental Protection Agency, Region VI, Air Program Branch, 1600 Patterson Street, Dallas, Texas 75201, during regular working hours and at the following other locations:

Air Quality Service
Oklahoma State Department of Health
NE. 10th and Stonewall
Oklahoma City, Oklahoma 73105

Air Quality Section
Oklahoma City-County Health Department
921 NE. 23rd Street
Oklahoma City, Oklahoma 73105

Air Pollution Control Division
Tulsa City-County Health Department
4616 East 15th Street
Tulsa, Oklahoma 74112

OREGON

The State of Oregon identified the urbanizing portions of the following Standard Metropolitan Statistical Areas in Oregon as possible AQMAs:

1. Portland, Oregon-Vancouver, Washington (Columbia Region Association of Governments, 1970 Portland-Vancouver Metropolitan Transportation Study Area) and

2. Eugene-Springfield, Oregon (Eugene-Springfield Urban Service Area).

The State also identified the urbanizing portion of Jackson County, identified as the Bear Creek Valley Land Use Planning Area, as a possible AQMA. This planning area includes the cities of Medford and Ashland.

In addition, the Oregon submittal identified the Longview-Kelso, Washington—St. Helens, Oregon interstate area as a possible AQMA. However, prior to Washington's public hearing on AQMAs, agreement was reached by Oregon and Washington not to officially identify this area as a distinct AQMA. Instead, Oregon and Washington decided to conduct comprehensive studies of the entire Portland - Vancouver - Longview interstate area and, if necessary, develop a control strategy for maintenance of standards for the Longview-Kelso area as part of the Portland-Vancouver AQMA.

The State of Oregon's findings were subject to public hearings on April 12, 1974, in Portland, Oregon, and on April 15, 1974, in Eugene, Oregon. The State's identifications were submitted to EPA on May 1, 1974, by the Department of Environmental Quality and a supplement to those identifications was submitted on September 16, 1974. The EPA has reviewed the State analysis and concurs with the State identifications. The basis for this concurrence is presented in technical support documentation available for public inspection at the EPA, Region X Office, 1200 Sixth Avenue, Seattle, Washington 98108.

No public comments were received either as a result of the State public hearing or the Federal notice of proposed rulemaking published on July 10, 1974, (39 FR 25330). Comments received from the Governor were in support of the designated areas as originally proposed. This action reflects no substantive change from the proposed action. It is noted, however, that the boundaries of the AQMAs subject to this rulemaking are now defined in terms of specific planning areas rather than by a listing of political jurisdictions as was done in the proposal.

RHODE ISLAND

On April 11, 1974, the Administrator received AQMA identifications for the State of Rhode Island from the Rhode Island Department of Health. A public hearing was held on this submittal by the State on April 10, 1974. EPA proposed the AQMAs submitted by the State in the FEDERAL REGISTER of July 10, 1974 (39 FR 25330). After review of the State's submittal, the Administrator is approving the State's identification of the Metropolitan Providence area, as modified by a letter from Governor Noel dated September 6, 1974, as an AQMA for the specified pollutants. The State submittal and technical support documentation upon which this approval is based are available for public inspection at the offices of EPA, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203, and the offices of the Division of Air Pollution Control, Room 204, Health Building, Providence, Rhode Island 02908. Comments were received from the Governor's office pertaining to the July 10, 1974, proposed rulemaking publication of this designation in the FEDERAL REGISTER. It was recommended by the Governor's office and upon consideration, agreed to by the Administrator, that the following cities and towns be added to the AQMA because of anticipated levels of population concentration and industrial development: Coventry, Cumberland, East Greenwich, Johnston, Lincoln, Middleton, Newport, North Kingstown, North Smithfield, Portsmouth, Smithfield, Tiverton, West Warwick, and Woonsocket. The city of Providence was left out of the July 10, 1974, proposed rulemaking due to a typographical error and has been added to the designated area.

SOUTH CAROLINA

On March 22, 1974, the Administrator received AQMA identification material for the State of South Carolina from the South Carolina Department of Health and Environmental Control, Bureau of Air Quality Control, proposing to designate the Charleston and Greenville areas as AQMAs.

A public hearing was held by the State in Columbia on March 20, 1974. The Administrator proposed as AQMAs the areas submitted by the State in the FEDERAL REGISTER of July 10, 1974 (39 FR 25330). The one comment received on the proposal was from the Governor, who indicated that the boundaries of the Air Quality Maintenance Areas proposed in the July 10, 1974, FEDERAL REGISTER did not conform to the boundaries as delineated in the State submittal. Accordingly, the descriptions of the areas identified herein have been changed to correspond with those of the State-identified areas; these areas include portions of Greenville County and contiguous portions of Charleston and Berkeley Counties. EPA is approving the State's AQMA identifications as submitted.

The State submittal and EPA's technical support documentation on which this action is based are available for public inspection at the office of the Bureau of Air Quality Control, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29211, and the office of EPA Region IV, 1421 Peachtree St., NE., Atlanta, Georgia 30309.

Information as to other locations where the designation material may be reviewed is available from both of the above offices.

TEXAS

The Governor of the State of Texas officially submitted a list of identified AQMAs to EPA on May 30, 1974. This followed seven State public hearings held on the identifications in the cities of Austin, Beaumont, Corpus Christi, Dallas, El Paso, Houston, and San Antonio on April 10 and 11, 1974. Five areas were identified as AQMAs, four of these for particulate matter and one area for particulate matter and sulfur dioxide. The State did not make any identifications for photochemical oxidants, pointing out that the State's transportation control plans, upon which the AQMA identification criteria were based, were then involved in litigation between the State and EPA.

In the EPA proposal of July 10, 1974, all of the State designations were included. Also, the following additions and changes were made: (1) The Beaumont, Corpus Christi, Dallas-Fort Worth, Houston-Galveston, El Paso, San Antonio, and Austin areas were proposed as AQMAs for photochemical oxidants on the basis that transportation control plans had been promulgated for these areas or that it was deemed that a photochemical oxidant control strategy was required; (2) sulfur dioxide was listed for the El Paso area on the basis that very high concentrations of sulfur dioxide had been measured in the vicinity of a nonferrous smelter; (3) the Houston and Galveston areas were combined into a single AQMA because it was thought that any problems of sulfur dioxide in the two areas were interrelated, and because a transportation control plan had been promulgated for the entire region.

Four public hearings on the complete proposal of designations of AQMAs in Texas were held by EPA in the cities of Dallas, El Paso, San Antonio, and Hous-

ton during the period of August 16–22, 1974. Written comments were also received directly in the Regional Office. All of these comments have been evaluated and considered in arriving at the official designations promulgated below. Those comments which have resulted in major changes to the proposed package are discussed in the following paragraphs.

The State and other organizations have contended that the Houston and Galveston areas should not be combined into a single AQMA. Testimony was given that, although sulfur dioxide emissions in the Houston area are about four times those of the Galveston area, ambient concentrations of sulfur dioxide in Houston do not show violations of standards. (However, the land area of the Houston SMSA is approximately 16 times that of the Galveston SMSA). Additionally, it was claimed that because of wind direction and other factors, emissions of sulfur dioxide in Houston do not ordinarily affect Galveston, although conflicting testimony indicated a strong probability of wind-borne transport of emissions. EPA received opposition from the State, the County of Galveston, the Houston Chamber of Commerce, and several local governments in the region to the combining of the Houston and Galveston areas into one AQMA on the grounds that the Houston area does not have to be identified as an AQMA for SO_2, but the Galveston area does. EPA has therefore considered the matter and concluded that the areas should be separated. Consequently the Houston area is being designated for particulate matter and photochemical oxidants, and the Galveston area is being designated for particulate matter, photochemical oxidants and sulfur dioxide. Each of these areas consists of a complete SMSA.

The State and representatives of the smelters (American Smelting and Refining Company, ASARCO) presented testimony in opposition to the designation of El Paso County for sulfur dioxide. The testimony indicated that the violation of the air quality standard was caused by one source, and the State was presently developing a revised control strategy and regulation limiting emissions from that source. Thus, the designation of El Paso County does not include sulfur dioxide because it is more appropriate to develop a control strategy for the one plant than to develop a control strategy for the entire area through an air quality maintenance plan.

EPA has re-examined the proposed AQMA identifications for photochemical oxidants in the light of a recent court decision. Based upon this re-examination, the Administrator is not identifying the Austin area as an AQMA for photochemical oxidants. If the Administrator discovers, based upon further investigation, that this area has the potential for failing to maintain the national standard for photochemical oxidants, he will identify this area as an AQMA.

According to a report performed under contract for EPA, no additional oxidant control measures are necessary for Corpus Christi; present stationary source regulations and Federal motor vehicle controls are expected to provide sufficient reduction of emissions of hydrocarbons for attainment by 1975 and maintenance thereafter through 1985. Thus, the Corpus Christi area is not being identified for photochemical oxidants.

The Administrator approves the State's submittal with the addition of photochemical oxidant as a designated pollutant for the following AQMAs: Beaumont, Dallas-Fort Worth, El Paso, Galveston, Houston, and San Antonio.

The analysis and submittal of the State as well as EPA technical support documentation are available for inspection during normal business hours at the U.S. EPA, Region VI, Air Programs Branch, 1600 Patterson Street, Dallas, Texas 75201, and the Texas Air Control Board, 8520 Shoal Creek Blvd., Austin, Texas 78758. Copies of the transcript of the public hearings held by EPA and other comments received are also available for inspection at the U.S. EPA Region VI office.

Vermont

The State of Vermont did not submit any material to EPA that identifies AQMAs. The EPA document, Guidelines for Designation of Air Quality Maintenance Areas, however, required that States consider, as a minimum, the SMSAs within their jurisdiction. Since the State of Vermont does not contain any SMSAs, Vermont did not submit any material concerning AQMAs, and in Administrator does not identify any areas under § 51.12, paragraphs (e) and (f), of this chapter as having the potential for violation of national ambient air quality standards within 10 years. No comments were received pertaining to the July 10, 1974, proposed rulemaking of this action in the Federal Register.

Washington

The State of Washington identified the urbanizing portions of the following Standard Metropolitan Statistical Areas in Washington as possible AQMAs:

1. Seattle-Everett and Tacoma, Washington (Washington State Department of Highways Seattle Tacoma Urban Area—1972).
2. Spokane, Washington (Spokane Regional Planning Conference Study Area).
3. Portland, Oregon-Vancouver, Washington (Columbia Region Association of Governments 1970 Portland-Vancouver Metropolitan Transportation Study Area).

The State's findings were subject to a public hearing on May 29, 1974, in Lacey, Washington. The State's adopted identifications were submitted to EPA on May 31, 1974, by the Washington Department of Ecology.

EPA has reviewed the State analysis and concurs with the State identifications. The basis for this concurrence is presented in the technical support documentation available for public inspection at the EPA, Region X Office, 1200 Sixth Avenue, Seattle, Washington 98108.

No public comments were received either as a result of the State public hearing or the Federal notice of proposed rulemaking published on July 10, 1974 (39 FR 25330). Comments received from the Governor supported the boundaries of the designated areas as published in the EPA proposal. This action reflects no substantive changes from the proposed action. It is noted however that the boundaries of the AQMAs addressed by this rulemaking are now defined in terms of specific planning areas rather than by a listing of political jurisdictions as was done in the proposal.

Guam

Guam did not submit any material to EPA that identifies AQMAs. The EPA document, Guidelines for Designation of Air Quality Maintenance Areas, however, required that States consider, as a minimum, the SMSAs within their jurisdiction. Since Guam does not contain any SMSAs, Guam did not submit any material concerning AQMAs, and the Administrator does not identify any areas pursuant to § 51.12, paragraphs (e) and (f), of this chapter as having the potential for violation of national ambient air quality standards within 10 years. No comments were received pertaining to the July 10, 1974, proposed rulemaking of this action in the Federal Register.

Puerto Rico

On July 10, 1974 (39 FR 25330), the Administrator proposed a list of four areas in the Commonwealth of Puerto Rico for AQMA identification. These areas were determined to have the potential for violating particulate matter standards during the period of 1975–1985. The Administrator's proposal was based on a May 5, 1974, submission from the Governor of Puerto Rico. The proposed AQMAs were the subject of a Puerto Rico Environmental Quality Board (EQB) public hearing on April 18, 1974. The Administrator approves Puerto Rico's submission but is adding other areas and pollutants to the AQMA list for Puerto Rico. The Natural Resources Defense Council (NRDC) has presented detailed comments concerning the EPA proposal that affected the Administrator's AQMA identification. These comments are answered below.

Because of a lack of adequate data upon which to base its AQMA identifications, EPA employed a contractor to determine whether any additional areas should be identified. The contractor's task involved a detailed analysis of the four Standard Metropolitan Statistiscal Areas (SMSAs) in Puerto Rico to determine which areas should be identified as AQMAs.

Several monitoring stations had been operating throughout the San Juan and Ponce SMSAs for the calendar year of 1970. However, there were no stations existing in Mayaguez or Caguas for that period. For this reason, EPA used air pollution dispersion models and a 1970 emission inventory to compute 1970 air quality levels for the Mayaguez and Caguas SMSAs. In addition, the Ponce sulfur dioxide air quality was estimated by modeling since no monitoring stations

for that pollutant were located there in 1970. In reviewing the results of the dispersion model for Caguas, Mayaguez and Ponce, it is the Administrator's opinion that the values predicted by the contractor for 1970 underestimate the actual air quality concentration.

After predicting ambient air concentrations for the four SMSAs, a proportional ("roll-forward") technique was applied by the contractor to arrive at 1975 and 1985 air quality. For Caguas and Mayaguez, particulate matter concentrations are expected to increase by approximately three times between 1970 and 1985. It is the Administrator's belief that, even though air quality levels are predicted to be below the national standard for these two SMSAs, further detailed analysis should be performed because of the paucity of air quality data. As a result, the Administrator has determined that these two SMSAs should be identified as AQMAs for particulate matter and be subject to further intensive review and analysis.

Growth in emissions of sulfur oxides are expected in the San Juan and Ponce SMSAs according to data developed by the contractor. Therefore, the Administrator has determined that these areas should also be identified as AQMAs for sulfur oxides.

The areas of Guayanilla and Peneulas are areas of high industrial activity and have been identified as AQMAs for particulate matter. The lack of adequate air quality data for sulfur dioxide should not preclude their identification for sulfur oxides; because of the high degree of industrialization in these areas and the current and projected growth rate of sulfur oxide emissions, the Administrator has concluded that Guayanilla and Peneulas should also be identified as AQMAs for sulfur oxides.

NRDC suggested that the Administrator identify as AQMAs for sulfur oxides the areas of Guanica and Dorado. Upon review of these areas, the Administrator concurs with the position taken by NRDC and this notice contains the identification of Guanica and Dorado as AQMAs for sulfur oxides. Additional material submitted by NRDC shows that, in the vicinity of the municipalities of Utuado, Lares, and Adjuntas, extraction of copper through open pit mining will occur. It is expected that particulate emissions from the extraction process will approach 2,600 tons/day. In addition, the smelting process will cause the emission of approximately 80 tons/day of sulfur dioxide. Based on this information, the Administrator has determined that the potential situation in these municipalities clearly dictates a need to identify these municipalities as air quality maintenance areas for both particulate matter and sulfur oxides.

NRDC has also brought to the Administrator's attention the fact that location approvals have been granted for the construction of large heavy industrial parks in six municipalities. The municipalities are: Yabucoa, Guyama, Punta-Cabillon, Barceloneto, Arecibo, and Aguadillo. The Administrator has concluded that there exists a potential for violation of ambient air quality standards due to the planned industrialization of these areas, and, consequently, this notice identifies all of the above mentioned municipalities as air quality maintenance areas for both particulate matter and sulfur oxides.

The technical support documentation supports the above-mentioned identifications and the Administrator's technical judgments; the State submittal and technical support documentation are available for review during normal business hours at the offices of EPA Region II, 26 Federal Plaza, Room 908, New York, N.Y. 10007.

U.S. Virgin Islands

The U.S. Virgin Islands did not submit any material to EPA that identifies AQMAs. The EPA document, Guidelines for Designation of Air Quality Maintenance Areas, however, required that States consider, as a minimum, the SMSAs within thier jurisdiction. Since the U.S. Virgin Islands does not contain any SMSAs, the Virgin Islands did not submit any material concerning AQMAs, and the Administrator does not identify any areas under § 51.12, paragraphs (e) and (f), of this chapter as having the potential for violation of national ambient air quality standards within 10 years. No comments were received pertaining to the July 10, 1974, proposed rulemaking of this action in the Federal Register.

American Samoa

American Samoa did not submit any material to EPA that identifies AQMAs. The EPA document, Guidelines for Designation of Air Quality Maintenance Areas, however, required that States consider, as a minimum, the SMSAs within their jurisdiction. Since American Samoa does not contain any SMSAs, American Samoa did not submit any material concerning AQMAs, and the Administrator does not identify any areas under § 51.12, paragraphs (e) and (f), of this chapter as having the potential for violation of national ambient air quality standards within 10 years. No comments were received pertaining to the July 10, 1974, proposed rulemaking of this action in the Federal Register.

Availability of State Submittals and Technical Support Documentation

State submittals and technical support documentation (including the Administrator's evaluation of State-submitted AQMA material) for the list of AQMAs will be available for public inspection during normal business hours at the Freedom of Information Center, EPA, Room 206, 401 M Street, SW., Washington, D.C. 20460, and at each of the Regional Offices listed below. Each Regional Office will have only the material for the States within its respective region.

Region	States	Address
I	Maine, Rhode Island, Vermont	John F. Kennedy Federal Bldg., Room 2303, Boston, Mass. 02203.
II	Puerto Rico, Virgin Islands	26 Federal Plaza, New York, N.Y. 10007.
IV	Alabama, Georgia, Mississippi, North Carolina, South Carolina	1421 Peachtree St. NE., Atlanta, Ga. 30309.
VI	Louisiana, Oklahoma, Texas	1600 Patterson St., Suite 1100, Dallas, Tex. 75201.
VII	Iowa	1735 Baltimore Ave., Kansas City, Mo. 64108.
IX	Hawaii, American Samoa, Guam	100 California St., San Francisco, Calif. 94111.
X	Alaska, Idaho, Oregon, Washington	1200 6th Ave., Seattle, Wash. 98101.

The Administrator finds good cause for making this rulemaking effective immediately in order that the affected States may begin at once to develop detailed air quality maintenance area analyses and plans if they have not already begun to do so.

(Secs. 110, 301(a), Clean Air Act, as amended (42 U.S.C. 1857c-5, 1857g(a)).)

Dated: April 22, 1975.

Russell E. Train,
Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart B—Alabama

§ 52.50 [Amended]

1. Section 52.50 is amended by inserting the date "June 17, 1974" in proper chronological order in paragraph (c) (2).

2. Subpart B is amended by adding § 52.59 as follows:

§ 52.59 Maintenance of national standards.

(a) The areas listed below which were identified by the State of Alabama are hereby identified by the Administrator pursuant to § 51.12, paragraphs (e) and (f), of this chapter as having the potential for violation of the specified air quality standards within 10 years. The identified areas consist of the territorial area encompassed by the boundaries of the given jurisdictions or described area including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited.

(1) Birmingham Air Quality Maintenance Area.

(i) Pollutant for which the area is identified: Particulate matter.

(ii) Geographical composition of area:

Jefferson County.
Walker County.

(2) Gadsden Air Quality Maintenance Area.

(i) Pollutant for which the area is identified: Particulate matter.

(ii) Geographical composition of area:

Etowah County.

(3) Mobile Air Quality Maintenance Area.

(i) Pollutant for which the area is identified: Particulate matter.

(ii) Geographical composition of area:

Mobile County.

Subpart C—Alaska

3. Subpart C is amended by adding § 52.95 as follows:

§ 52.95 Maintenance of national standards.

(a) The requirements of § 51.12(e) of this chapter are not met because the State neither identified areas of the State which have the potential for violation of the national air quality standards within 10 years nor provided a justification that there are no such areas in the State.

(b) Pursuant to the requirements of § 51.12 (e) and (f) of this chapter, the Administrator has determined that there are no areas in the State having the potential for violation of the national ambient air quality standards within 10 years.

Subpart L—Georgia

4. Section 52.570 is amended by adding a new paragraph (c) (4) as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

(4) May 17, 1974, by the Director of the Environmental Protection Division of the Georgia Department of Natural Resources.

5. Subpart L is amended by adding § 52.580 as follows:

§ 52.580 Maintenance of national standards.

(a) The areas listed below are hereby identified by the Administrator pursuant to § 51.12, paragraphs (e) and (f), of this chapter as having the potential for violation of the specified air quality standards within 10 years. The identified areas consist of the territorial area encompassed by the boundaries of the given jurisdictions or described area including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited.

(1) Atlanta Air Quality Maintenance Area.

(i) Pollutant for which the area is identified: Particulate matter.

(ii) Geographical composition of area:

Clayton County	Fulton County
Cobb County	Gwinnett County
De Kalb County	

(2) Savannah Air Quality Maintenance Area.

(i) Pollutant for which the area is identified: Particulate matter.

(ii) Geographical composition of area:

Chatham County

(3) Chattanooga Interstate Air Quality Maintenance Area (Georgia Portion).

(i) Pollutant for which the area is identified: Particulate matter.

(ii) Geographical composition of area:

Catoosa County	Walker County

Subpart M—Hawaii

6. Subpart M is amended by adding § 52.631 as follows:

§ 52.631 Maintenance of national standards.

(a) The requirements of § 51.12(e) of this chapter are not met because the State neither identified areas of the State that have the potential for violation of the national air quality standards within 10 years nor provided a justification that there are no such areas in the State.

(b) Pursuant to the requirements of § 51.12 (e) and (f) of this chapter, the Administrator has determined that there are no areas in the State having the potential for violation of the national ambient air quality standards within 10 years.

Subpart N—Idaho

7. Section 52.670 is amended by adding paragraph (c) (3) as follows:

§ 52.670 Identification of plan.

* * * * *

(c) * * *

(3) June 11, 1974, by the Idaho Department of Environmental and Community Services.

8. Subpart N is amended by adding § 52.682 as follows:

§ 52.682 Maintenance of national standards.

(a) Pursuant to the requirements of § 51.12, paragraphs (e) and (f), of this chapter, the Administrator, in agreement with the State of Idaho, has identified no areas that have the potential for violation of the national ambient air quality standards within 10 years.

Subpart Q—Iowa

§ 52.820 [Amended]

9. Section 52.820 is amended by inserting the date "June 7, 1974," in chronological order in paragraph (c) (2).

10. Subpart Q is amended by adding § 52.832 as follows:

§ 52.832 Maintenance of national standards.

(a) The areas listed below which were identified by the State of Iowa are hereby identified by the Administrator pursuant to § 51.12, paragraphs (e) and (f), of this chapter as having the potential for violation of the specified air quality standards within ten years. The identified areas consist of the territorial area encompassed by the boundaries of the given jurisdictions or described area including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited.

(1) Cedar Rapids Air Quality Maintenance Area.

(i) Pollutant for which the area is identified: Particulate matter.

(ii) Geographical composition of area:

Linn County.

(2) Des Moines Air Quality Maintenance Area.

(i) Pollutants for which the area is identified: Carbon monoxide and particulate matter.

(ii) Geographical composition of area:

Polk County.

(3) Waterloo Air Quality Maintenance Area.

(i) Pollutant for which the area is identified: Particulate matter.

(ii) Geographical composition of area:

Black Hawk County.

Subpart T—Louisiana

11. Subpart T is amended by adding § 52.982 as follows:

§ 52.982 Maintenance of national standards.

(a) The requirements of § 51.12(e) of this chapter are not met because the State neither identified areas of the State which have the potential for violation of air quality standards within ten years nor provided a justification that there are no such areas in the State.

(b) The area listed below is hereby identified by the Administrator pursuant to § 51.12 (e) and (f) of this chapter as having the potential for violation of a national ambient air quality standard within 10 years. The identified area consists of the territorial area encompassed by the boundaries of the given jurisdictions or described area including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited.

(1) Shreveport Air Quality Maintenance Area.

(i) Pollutant for which the area is identified: Particulate matter.

(ii) Geographical composition of area:

Bossier Parish	Webster Parish
Caddo Parish	

Subpart U—Maine

12. Section 52.1020 is amended by adding paragraph (c) (3) as follows:

§ 52.1020 Identification of plan.

* * * * *

(c) * * *

(3) June 26, 1974.

13. Subpart U is amended by adding § 52.1028 as follows:

§ 52.1028 Maintenance of national standards.

(a) Pursuant to the requirements of § 51.12, paragraphs (e) and (f), of this chapter, the Administrator, in agreement with the State of Maine, has identified no areas that have the potential for violation of the national ambient air quality standards within 10 years.

Subpart Z—Mississippi

14. In § 52.1270, paragraph (c) (2) is revised to read as follows:

§ 52.1270 Identification of plan.

* * * * *

(c) * * *

(2) May 17, 1972, March 6, 1973, and March 14, 1974.

15. Subpart Z is amended by adding § 52.1279 as follows:

§ 52–1279 Maintenance of national standards.

(a) Pursuant to the requirements of § 51.12, paragraphs (e) and (f), of this chapter, the Administrator, in agreement with the State of Mississippi, has identified no areas that have the potential for violation of the national ambient air quality standards within 10 years.

Subpart II—North Carolina

§ 52.1770 [Amended]

16. Section 52.1770 is amended by inserting the dates April 1, and November 22, 1974, in proper chronological order in paragraph (c).

17. Subpart II is amended by adding § 52.1777 as follows:

§ 52.1777 Maintenance of national standards.

(a) The areas listed below which were identified by the State of North Carolina are hereby identified by the Administrator pursuant to § 51.12, paragraphs (e) and (f), of this chapter as having the potential for violation of the specified air quality standards within 10 years. The identified areas consist of the territorial area encompassed by the boundaries of the given jurisdictions or described area including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited.

(1) Charlotte Air Quality Maintenance Area.

(i) Pollutant for which the area is identified: Particulate matter.

(ii) Geographical composition of area:

Mecklenburg County.

(2) Greensboro Air Quality Maintenance Area.

(i) Pollutant for which the area is identified: Particulate matter.

(ii) Geographical composition of area:

Guilford County.

(3) Winston-Salem Air Quality Maintenance Area.

(i) Pollutant for which the area is identified: Particulate matter.

(ii) Geographical composition of area:

Forsyth County.

Subpart LL—Oklahoma

§ 52.1920 [Amended]

18. Paragraph (c) (2) is amended by adding the date "July 30, 1974," in proper chronological sequence.

19. Subpart LL is amended by adding § 52.1927 as follows:

§ 52.1927 Maintenance of national standards.

(a) The areas listed below which were identified by the State of Oklahoma are hereby identified by the Administrator pursuant to § 51.12 (e) and (f) of this chapter as having the potential for violation of a national ambient air quality standard within 10 years. The identified areas consist of the territorial area encompassed by the boundaries of the given jurisdictions or described area including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited.

(1) Central Oklahoma Air Quality Maintenance Area.

(i) Pollutants for which the area is identified: Particulate matter and photochemical oxidants.

(ii) Geographical composition of area:

Oklahoma County
That part of Canadian County east of Range 6W
That part of Cleveland County north of Township 7N.

(2) Tulsa Air Quality Maintenance Area.

(i) Pollutants for which the area is identified: Particulate matter and photochemical oxidants.

(ii) Geographical composition of area:

Tulsa County
That part of Rogers County south of Township 23N and west of Range 16E
That part of Wagoner County north of Township 17N and west of Range 16E
That part of Creek County north of Township 16N and east of Range 10E
That part of Osage County south of Township 23N and east of Range 10E.

Subpart MM—Oregon

20. Section 52.1970 is amended by revising paragraph (c) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) Supplemental information was submitted on:

(1) May 3 and October 26, 1972, and April 13 and September 21, 1973, and

(2) August 10, 1972, February 9, May 30, June 8, 22, and 25, July 17, and August 3, 20, and 27, 1973, and May 1, and September 16, 1974, by the Department of Environmental Quality.

21. Subpart MM is amended by adding § 52.1986 as follows:

§ 52.1986 Maintenance of national standards.

(a) The areas listed below, which were determined by the State of Oregon, are hereby identified by the Administrator pursuant to § 51.12, paragraphs (e) and (f), of this chapter as having the potential for violation of the specified air quality standards within 10 years. The identified areas consist of the territorial area encompassed by the boundaries of the given jurisdictions or described area including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited.

(1) Portland-Vancouver Interstate Air Quality Maintenance Area (Oregon Portion).

(i) Pollutants for which the area is identified: Particulate matter, sulfur dioxide, carbon monoxide, and photochemical oxidants.

(ii) Geographical composition of area:

The Columbia Region Association of Governments 1970 Portland-Vancouver Metropolitan Transportation Study Area. (A complete geographical description of the area is presented in a map of the 1970 Portland-Vancouver Metropolitan Study Area prepared by the Columbia Region Association of Governments and available for inspection at the Freedom of Information Center, U.S. EPA, Room 206, 401 M Street SW., Washington, D.C.; the U.S. EPA Oregon Operations Office, 1234 SW. Morrison Street, Portland, Oregon; and the U.S. EPA Region X Office, 1200 Sixth Avenue, Seattle, Washington.)

(2) Eugene-Springfield Air Quality Maintenance Area.

(i) Pollutant for which the area is identified: Particulate matter.

(ii) Geographical composition of area:

Lane Regional Air Pollution Authority Control Area "C". (This area is defined in the Lane Regional Air Pollution Authority Rules and Regulations dated August 2, 1972, and available for inspection at the Freedom of Information Center, U.S. EPA, Room 206, 401 M Street SW., Washington, D.C.; the U.S. EPA Oregon Operations Office, 1234 SW. Morrison Street, Portland, Oregon; and the U.S. EPA Region X Office, 1200 Sixth Avenue, Seattle, Washington.)

(3) Medford-Ashland Air Quality Maintenance Area.

(i) Pollutant for which the area is identified: Particulate matter.

(ii) Geographical composition of area:

The Bear Creek Urban Regional Land Use Planning Area. (A complete geographical description of the area is presented in a map of the Bear Creek Urban Regional Land Use Planning Area prepared by the county engineer of Jackson County, Oregon (revised 1973) and is available for inspection at the Freedom of Information Center, U.S. EPA, Room 206, 401 M Street SW., Washington, D.C.; the U.S. EPA Oregon Operations Office, 1234 SW. Morrison Street, Portland, Oregon; and the U.S. EPA Region X Office, 1200 Sixth Avenue, Seattle, Washington.)

Subpart OO—Rhode Island

22. In § 52.2070, paragraph (c) is revised to read as follows:

§ 52.2070 Identification of plan.

* * * * *

(c) Supplemental information was submited on:

(1) February 9 and February 29, 1972, April 24, 1973, and April 11, 1974 by the Rhode Island Department of Health.

(2) September 6, 1974.

* * * * *

23. Subpart OO is amended by adding § 52.2082 as follows:

§ 52.2082 Maintenance of national standards.

(a) The area listed below, which was identified by the State of Rhedoe Island, is hereby identified by the Administrator pursuant to § 51.12, paragraphs (e) and (f), of this chapter as having the potential for violation of the specified air quality standards within 10 years. The identified area consists of the territorial

area encompased by the boundaries of the given jurisdictions.

(1) Metropolitan Providence Air Quality Maintenance Area.

(i) Pollutants for which the area is identified: Particulate matter, sulfur dioxide, and photochemical oxidants.

(ii) Geographical composition of area:

In Kent County: the city of Warwick and the towns of Coventry, East Greenwich, and West Warwick.

In Newport County: the city of Newport and the towns of Middletown, Portsmouth and Tiverton.

In Providence County: the cities of Central Falls, Cranston, East Providence, Pawtucket, Providence, and Woonsocket; the towns of Cumberland, Johnson, Lincoln, North Providence, North Smithfield, and Smithfield.

In Washington County: the town of North Kingston.

Subpart PP—South Carolina

24. In § 52.2120, paragraph (c) (4) is revised to read as follows:

§ 52.2120 Identification of plan.

* * * * *

(c) * * *

(4) August 16, 1973, and March 14 and 22, 1974, by the South Carolina Department of Health and Environmental Control.

25. Subpart PP is amended by adding § 52.2129 as follows:

§ 52.2129 Maintenance of national standards.

(a) The areas listed below which were identified by the State of South Carolina are hereby identified by the Administrator pursuant to § 51.12, paragraphs (e) and (f), of this chapter as having the potential for violation of the specified air quality standards within 10 years. The identified areas consist of the territorial area encompassed by the boundaries of the given jurisdictions or described area including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited.

(1) Charleston Air Quality Maintenance Area.

(i) Pollutant for which the area is identified: Particulate matter.

(ii) Geographical composition of area:

The contiguous portions of Charleston and Berkeley Counties lying within the boundary of a line described as follows: Starting at the intersection of U.S. 17 and Church Creek, and proceeding thence northward to the intersection of the Ashley River and the Dorchester County line, northeastward to the intersection of U.S. 52 and State Highway 9, eastward to the intersection of Durham Creek and West Branch Cooper River, southward along the Cooper River to Red Bank Landing, eastward to the town of Cainhoy, southward along State Highway 41 to its intersection with U.S. 17, and westward along U.S. 17 to and ending at Church Creek.

(2) Greenville Air Quality Maintenance Area.

(i) Pollutant for which the area is identified: Particulate matter.

(ii) Geographical composition of area:

The portion of Greenville County lying within the boundary of a line described as follows: Starting at the intersection of U.S. 25 By-Pass and State Highway 253, and proceeding thence northeastward along Highway 253 to the intersection with State Highway 46, southeastward to the intersection of State Highway 291 and U.S. 29, northeastward along U.S. 29 to the Greenville-Spartanburg County Line, southward along the County line for 2½ miles, southwestward in an arc paralleling U.S. 29 to an intersection with I-385, southeastward along I-385 to its intersection with I-85, southwestward along I-85 to its intersection with U.S. 25 By-Pass, and northwestward along U.S. 25 By-Pass to and ending at State Highway 253.

Subpart SS—Texas

§ 52.2270 [Amended]

26. Paragraph (c) (2) is amended by adding the date May 30, 1974 in proper chronological sequence.

27. Subpart SS is amended by adding § 52.2302 as follows:

§ 52.2302 Maintenance of national standards.

(a) The areas listed below are hereby identified by the Administrator pursuant to § 51.12 (e) and (f) of this chapter as having the potential for violation of the specified air quality standards within 10 years. The identified areas consist of the territorial area encompassed by the boundaries of the given jurisdictions or described area including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857(h)(f)) geographically located within the outermost boundaries of the area so delimited.

(1) Beaumont Air Quality Maintenance Area.

(i) Pollutants for which the area is identified: Particulate matter and photochemical oxidants.

(ii) Geographical composition of area:

Hardin County
Jefferson County
Orange County

(2) Corpus Christi Air Quality Maintenance Area.

(i) Pollutant for which the area is identified: Particulate matter.

(ii) Geographical composition of area:

Nueces County
San Patricio County

(3) Dallas-Fort Worth Air Quality Maintenance Area.

(i) Pollutants for which the area is identified: Particulate matter and photochemical oxidants.

(ii) Geographical composition of area:

Collin County
Dallas County
Denton County
Ellis County
Hood County
Johnson County
Kaufman County
Parker County
Rockwall County
Tarrant County
Wise County.

(4) Galveston Air Quality Maintenance Area.

(i) Pollutants for which the area is identified: Particulate matter, photochemical oxidants, and sulfur dioxide.

(ii) Geographical composition of area:

Galveston County.

(5) Houston Air Quality Maintenance Area.

(i) Pollutants for which the area is identified: Particulate matter and photochemical oxidants.

(ii) Geographical composition of area:

Brazoria County
Fort Bend County
Harris County
Liberty County
Montgomery County
Waller County.

(6) San Antonio Air Quality Maintenance Area.

(i) Pollutant for which the area is identified: Photochemical oxidants.

(ii) Geographical composition of area:

Bexar County
Comal County
Guadalupe County.

(7) El Paso Air Quality Maintenance Area.

(i) Pollutant for which the area is identified: Photochemical oxidants.

(ii) Geographical composition of area:

El Paso County.

Subpart UU—Vermont

28. Subpart UU is amended by adding § 52.2379 as follows:

§ 52.2379 Maintenance of national standards.

(a) Based upon the information available to him and in accordance with the EPA publication, Guidelines for Designation of Air Quality Maintenance Areas, the Administrator does not identify any areas pursuant to § 51.12, paragraphs (e) and (f), of this chapter as having the potential for violation of the national ambient air quality standards within 10 years.

Subpart WW—Washington

29. Section 52.2470 is amended by revising paragraph (c) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) Supplemental information was submitted on:

(1) January 28, May 5, July 19, and September 11, 1972, and February 15, April 13, and October 11, 1973, and

(2) December 12, 1972, July 31, 1973, and May 31, 1974, by the State of Washington Department of Ecology.

30. Subpart WW is amended by adding § 52.2496 as follows:

§ 52.2496 Maintenance of national standards.

(a) The areas listed below which were determined by the State of Washington are hereby identified by the Administrator pursuant to § 51.12, paragraphs (e) and (f), of this chapter as having the potential for violation of the specified air quality standards within 10 years. The identified areas consist of the territorial area encompassed by the boundaries of the given jurisdictions or described area including the territorial area of all municipalities (as defined in Section 302(f) of the Clean Air Act, 42 U.S.C. 1857(h)(f)) geographically located within the outermost boundaries of the area so delimited.

(1) Puget Sound Air Quality Maintenance Area.

(i) Pollutant for which the area is identified: Particulate matter.

(ii) Geographical composition of area:

The Washington State Department of Highways Seattle-Tacoma Urban Area-1972. (A complete geographical description of the area is presented in a map of the Seattle-Tacoma Urban Area-1972 prepared by the Washington State Highway Department and available for inspection at the Freedom of Information Center, U.S. EPA, Room 206, 401 M Street SW., Washington, D.C.; the U.S. EPA Region X Office, 1200 Sixth Avenue, Seattle, Washington; and the Washington Department of Ecology Headquarters Office, St. Martin's College, Olympia, Washington.)

(2) Spokane Air Quality Maintenance Area.

(i) Pollutant for which the area is identified: Particulate matter.

(ii) Geographical composition of area:

Spokane Regional Planning Conference Study Area—1968. (A complete geographical description of the area is presented in the Spokane Metropolitan Area Regional Comprehensive Plan Map, dated October 22, 1968, prepared by the Spokane Regional Planning Conference and available for inspection at the Freedom of Information Center, U.S. EPA, Room 206, 401 M Street SW., Washington, D.C.; the U.S. EPA Region X Office, 1200 Sixth Avenue, Seattle, Washington; and the Washington Department of Ecology Headquarters Office, St. Martin's College, Olympia, Washington.)

(3) Portland-Vancouver Interstate Air Quality Maintenance Area (Washington Portion).

(i) Pollutants for which the area is identified: Particulate matter, sulfur dioxide, carbon monoxide, and photochemical oxidants.

(ii) Geographical composition of area:

The Columbia Region Association of Governments—1970 Portland-Vancouver Metropolitan Transportation Study Area. (A complete geographical description of the area is presented in a map of the 1970 Portland-Vancouver Metropolitan Study Area prepared by the Columbia Region Association of Governments and available for inspection at the Freedom of Information Center, U.S. EPA, Room 206, 401 M Street SW., Washington, D.C.; the U.S. EPA Region X Office, 1200 Sixth Avenue, Seattle, Washington; and the Washington Department of Ecology Headquarters Office, St. Martin's College, Olympia, Washington.

Subpart AAA—Guam

31. Subpart AAA is amended by adding § 52.2674 as follows:

§ 52.2674 Maintenance of national standards.

(a) Based upon the information available to him and in accordance with EPA publication, Guidelines for Designation of Air Quality Maintenance Areas, the Administrator does not identify any areas pursuant to § 51.12, paragraphs (e) and (f), of this chapter as having the potential for violation of national ambient air quality standards within 10 years.

Subpart BBB—Puerto Rico

32. Paragraph (c) of § 52.2720 is revised to read as follows:

§ 52.2720 Identification of plan.

* * * * *

(c) Supplemental information was submitted on:

(1) April 5, 9, and 17, May 30, June 18, and September 10, 1973, and on February 1 and 12, 1974, by the Commonwealth of Puerto Rico Environmental Quality Board;

(2) May 5, 1974.

33. Subpart BBB is amended by adding § 52.2728 as follows:

§ 52.2728 Maintenance of national standards.

(a) The areas listed below are hereby identified by the Administrator pursuant to § 51.12 (e) and (f) of this chapter as having the potential for violation of the specified air quality standards within 10 years. The identified areas consist of the territorial area encompassed by the boundaries of the given jurisdiction or described area including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited.

(1) Ponce Air Quality Maintenance Area.

(i) Pollutants for which the area is identified: Particulate matter and sulfur oxides.

(ii) Geographical composition of area:

Ponce Municipality
Juana Diaz Municipality
Villalba Municipality

(2) San Juan Air Quality Maintenance Area.

(i) Pollutants for which the area is identified: Particulate matter and sulfur oxides.

(ii) Geographical composition of area:

San Juan Municipality
Bayamon Municipality
Rio Grande Municipality
Carolina Municipality
Catano Municipality
Guaynabo Municipality
Loiza Municipality
Toa Baja Municipality
Trujillo Alto Municipality

(3) Caguas Air Quality Maintenance Area.

(i) Pollutant for which the area is identified: Particulate matter.

(ii) Geographical composition of area:

Caguas Municipality
Gurabo Municipality
San Lorenzo Municipality

(4) Mayaguez Air Quality Maintenance Area.

(i) Pollutant for which the area is identified: Particulate matter.

(ii) Geographical composition of area:

Mayaguez Municipality
Hormigueros Municipality
Anasco Municipality

(5) Guanica Air Quality Maintenance Area.

(i) Pollutant for which the area is identified: Sulfur oxides.

(ii) Geographical composition of area:

Guanica Municipality

(6) Dorado Air Quality Maintenance Area.

(i) Pollutant for which the area is identified: Sulfur oxides.

(ii) Geographical composition of area:

Dorado Municipality

(7) Guayanilla-Penuelas Air Quality Maintenance Area.

(i) Pollutants for which the area is identified: Particulate matter and sulfur oxides.

(ii) Geographical composition of area:

Guayanilla Municipality
Penuelas Municipality

(8) Lares-Utuado-Adjuntas Air Quality Maintenance Area.

(i) Pollutants for which the area is identified: Particulate matter and sulfur oxides.

(ii) Geographical composition of area:

Lares Municipality
Utuado Municipality
Adjuntas Municipality

(9) Aguadilla Air Quality Maintenance Area.

(i) Pollutants for which the area is identified: Particulate matter and sulfur oxides.

(ii) Geographical composition of area:

Aguadilla Municipality

(10) Arecibo-Barceloneta Air Quality Maintenance Area.

(i) Pollutants for which the area is identified: Particulate matter and sulfur oxides.

(ii) Geographical composition of area:

Arecibo Municipality
Barceloneta Municipality

(11) Guayama Air Quality Maintenance Area.

(i) Pollutants for which the area is identified: Particulate matter and sulfur oxides.

(ii) Geographical composition of area:

Guayama Municipality

(12) Yabucoa Air Quality Maintenance Area.

(i) Pollutants for which the area is identified: Particulate matter and sulfur oxides.

(ii) Geographical composition of area:

Yabucoa Municipality

Subpart CCC—U.S. Virgin Islands

34. Subpart CCC is amended by adding § 52.2778 as follows:

§ 52.2778 Maintenance of national standards.

(a) Based upon information available to him and in accordance with the EPA publication, Guidelines for Designation of Air Quality Maintenance Areas, the Administrator does not identify any areas pursuant to § 51.12, paragraphs (e) and (f), of this chapter as having the potential for violation of national ambient air quality standards within 10 years.

Subpart DDD—American Samoa

35. Subpart DDD is amended by adding § 52.2826 as follows:

§ 52.2826 Maintenance of national standards.

(a) Based upon the information available to him and in accordance with EPA publication, Guidelines for Designation of Air Quality Maintenance Areas, the Administrator does not identify any areas pursuant to § 51.12, paragraphs (e) and (f), of this chapter as having the potential for violation of national ambient air quality standards within 10 years.

[FR Doc.75-11183 Filed 4-28-75;8:45 am]

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PART IV

COUNCIL ON ENVIRONMENTAL QUALITY

■

ENVIRONMENTAL IMPACT STATEMENTS

List of Statements Received

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Administrative Actions Requiring Statements

The following list, filed with the Council by the Department of Health, Education, and Welfare pursuant to Council Guideline 40 CFR 1500.6(e), indicates those administrative actions that HEW has determined will require the preparation of environmental impact statements under NEPA.

NEPA MONTHLY REPORT

DATE: 2/4/75

PAGE 1 OF 1

FROM: Director, Office of Environmental Affairs
Department of Health, Education and Welfare

MONTH OF: JANUARY 1975

DRAFT ENVIRONMENTAL IMPACT STATEMENTS CURRENTLY UNDER PREPARATION

Author. No.	Federal Asst. #	Description of Proposed Action	Environment(s) Affected (City & State	Date for Completior
21 CFR 6.1(b)	N/A	Food Additive Petitions - Plastic Barrier Bottles for Carbonated Soft Drink and Beer Use	National	3/31/75
21 CFR 6.1(b)	N/A	Food Additive Regulations for Use of Animal Wastes as Animal Feed	National	6/1/75
PL 81-152, 40 USC 484	13.606	Transfer of Naval Well Field and Pipeline owned by U. S. Navy	Key West, Florida	3/31/75
PL 91-296	13.607	Construction of laboratory, office space and support facilities at the U. S. Public Health Service Research Park	Research Triangle Park, North Carolina	4/30/75
PL 81-152	13.606	The Commonwealth of Massachusetts has requested permission to demolish certain buildings on the site of the former Springfield Armory, which is listed on the National Register of Historic Places	Springfield, Massachusetts	4/30/75
PL 90-345		St. Joseph's Infirmary	Atlanta, Georgia	1975

MARGINAL IMPACT STATEMENTS ISSUED

Author. No.	Fed. Assis. Cat. No.	Description of Proposed Action	Environment(s) Affected (City & State)	Date of Issuance
PL 91-296, PL 89-4	13.[illegible] and 13.[illegible]	Jefferson Hospital - replacement, relocation and expansion of an 89-bed general hospital	Punxsutawney, Jefferson County, Pennsylvania	9/[illegible]/74
PL 91-296	13.[illegible]	Somerset Co. Health Center - replace, relocate and expand the existing inadequate facility	Westover, Somerset Co. Maryland	9/16/74
PL 91-296	13.246	Evelyn G. Frederick Health Center - Construction of new outpatient facility	Millersburg, Dauphin Co. Pennsylvania	10/7/74

REGION IV

MARGINAL IMPACT STATEMENTS ISSUED

1974

Author. No.	Fed. Assis. Cat. No.	Description of Proposed Action	Environment(s) Affected (City & State)	Date of Issuance
1/	13.459	Shelby State Community College - Phase II Construction	Memphis, Tennessee	7/30
2/	13.[illegible]	Elizabeth City State University Addition to Physical Education Building	Elizabeth City, N. C.	7/15
3/	13.[illegible]	University of Kentucky Medical Center - Health/Health Sciences Learning Center	Lexington, Kentucky	7/31
4/	13.[illegible]	Tyler Holmes Memorial Hospital - [illegible] square foot addition to existing Hospital	Winona, Mississippi	7/31
5/	13.[illegible]	Paton Street Area Vocational Education Center - Renovation of existing buildings	Montgomery, Alabama	7/31
6/	13.[illegible]	Area Vocational Educational Center - Addition and alterations to existing buildings	Marion, Alabama	7/31
7/	13.[illegible]	Center for Disease Control - Clifton Rd.- Temporary Lab Addition	Atlanta, Georgia	7/31

1/ PL 84-[illegible]; PL 89-329; PL 89-752; PL 90-575; 20 USC 701
2/ [illegible] and 78-[illegible] as amended by PL 91-158
3/ HR-[illegible] as amended by PL 91-296; 41 USC 291
4/ PL [illegible]; 20 USC 1241 to 1391, 82 Stat 1064-1094;
5/ Public Health Service Act as amended, Sections 101, 311, 315 and 361-369

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1974

Author. No.	Fed. Asst. Cat. No.	Description of Proposed Action	Environment(s) Affected (City & State)	Date of Issuance
1/	13.220	Memorial Medical Center- 9,300 square foot addition to existing Hospital	Savannah, Georgia	9/10
1/	13.220	Hall County Hospital - Renovation, modernation and expansion of existing Hospital	Gainesville, Georgia	9/17
2/	13.606	Hunter Army Airfield - Surplus Property Transfer	Savannah, Georgia	9/17
2/	13.220	York General Hospital - 2,600 square foot addition to existing Hospital	Rock Hill, S. C.	9/17
2/	13.220	Cobb Memorial Hospital - Addition and renovation of existing Hospital	Royston, Georgia	9/13
3/	13.200	Temporary Monkey Breeding Facility - Fenced area	Lawrenceville, Ga.	9/18
1/	13.220	Scott County Health Center - New Health Center	Forest, Mississippi	9/18
1/	13.220	Coweta General Hospital - Addition and modernization of existing Hospital	Newnan, Georgia	9/19
1/	13.220	Cabarrus County Health Center - Replacement Health Center	Concord, N. C.	9/25
1/	13.220	Glynn-Brunswick Memorial Hospital - Addition to existing Hospital	Brunswick, Georgia	9/23

1/ PL 88-443 as amended by PL 91-296; 42 USC 291
2/ PL 81-152; 40 USC 484
3/ Public Health Service Act as amended; Sections 301, 311, 315 and 361-369

1974

Author. No.	Fed. Asst. Cat. No.	Description of Proposed Action	Environment(s) Affected (City & State)	Date of Issuance
1/	13.220	George County Hospital - General Renovation and Alteration to existing Hospital.	Lucedale, Mississippi	10/15
1/	13.220	Buford General Hospital - 20 Bed Addition to existing Hospital	Buford, Ga.	10/15
1/	13.220	Lloyd Nolan Hospital - 6,000 square foot addition to Existing Hospital	Fairfield, Alabama	10/15
1/	13.220	Pineville Community Hospital - Third Floor Addition to existing Hospital	Pineville, Kentucky	10/24
1/	13.220	Ephraim McDowell Memorial Hospital - Addition to existing Hospital	Danville, Ky.	10/30
1/	13.220	Northwest Rehabilitation Center New Laboratory Building at existing Center	Clarksdale, Mississippi	10/31

1/ PL 88-443 as amended by PL 91-296; 42USC291

Author. No.	Fed. Asst. Cat. No.	Description of Proposed Action	Environment(s) Affected (City & State)	1974 Date of Issuance
1/	13.220	John Knox Manor Nursing Home Addition to Existing Retirement Home	Montgomery, Alabama	11/18
1/	13.220	Grady Memorial Hospital Addition over existing First Floor	Atlanta, Georgia	11/20
1/	13.220	Wesley Manor Nursing Home Addition to Existing Building	Dothan, Alabama	11/20
1/	13.220	Columbus County Hospital Replacement Hospital	Whiteville, North Carolina	11/29
1/	13.220	Wayne General Hospital Replacement 80 Bed Hospital	Waynesboro, Mississippi	11/14
1/	13.220	Polk General Hospital Addition to Existing Hospital	Cedartown, Georgia	12/3
1/	13.220	Elberton-Elbert County Hospital Addition to Existing Hospital	Elberton, Georgia	12/4
1/	13.220	S. C. Dept. of Health and Environment New Laboratory Building on Existing Health Center Property	State Park, S. C.	12/4
1/	13.220	Bayfront Medical Center Laboratory Addition to Existing Building	St. Petersburg, Florida	12/11
1/	13.220	Gilchrist County Health Center Addition to Existing Building	Trenton, Florida	12/13
1/	13.220	Memorial Hospital Satellite Clinic New Clinic	Pembroke Pines, Florida	12/13
1/	13.220	Forrest County Health Center Replacement Health Center	Hattiesburg, Miss.	12/13
1/	13.220	Williamsburg County Memorial Hospital New Outpatient Facility	Hemmingway, S. C.	12/13
1/	13.220	Comprehensive Rehabilitation Center New Center	Columbia, S. C.	12/13
1/	13.220	G. H. Lanier Memorial Nursing Home Second Story Addition	Lanyale, Alabama	12/18
1/	13.220	Nash County Health Center Addition to Existing Building	Nashville, N. C.	12/18

1/ PL 88-443 as amended by PL 91-296; 42 USC 291

MARGINAL IMPACT STATEMENTS ISSUED — REGION V

Author. No.	Fed. Asst. Cat. No.	Description of Proposed Action	Environment(s) Affected (City & State)	Date of Issuance
1/	13.220	Lakeview Memorial Hospital - Expansion of existing facility and necessary remodeling in the existing facility.	Danville, Illinois	8/19/74
2/	13.40	Ingham County Library - Construction of library on 1/2 acre site.	Haslett, Michigan	8/2/74
2/	13.408	City of Novi Public Library - Construction of library.	Novi, Michigan	8/22/74
2/	13.408	Marysville Public Library - Construction of library, 6,000 sq. ft., on approximately 22 acres.	Marysville, Michigan	8/22/74
2/	13.408	Portage Public Library - Construction of library, 14,000 sq. ft., on 2 acre site.	Portage, Michigan	8/22/74
1/	13.220	Branch County Human Services Building - construction of one-story, 22,450 s.f. structure to house the Health Department, Department of Social Services, and Mental Health Services.	Coldwater, Michigan	9/26/74
1/	13.220	Mercy Hospital - project intends to replace an existing obsolescent nursing structure and expand the following areas - diagnostic and treatment, administrative and service.	Cadillac, Michigan	9/26/74
3/	13.339	University of Minnesota - construction of two structures as the Animal Sciences Veterinary Medicine Phase I Facility	St. Paul, Minn.	10/25/74

1/ PL 88-443 as amended by PL 91-296; 42 USC 291
2/ PL 91-600; 20 USC 351-355e2
3/ PL 92-157; 42 USC; Section 770 Public Health Service Act

Author. No.	Fed. Asst. Cat. No.	Description of Proposed Action	Environment(s) Affected (City & State)	Date of Issuance
1/	13.220	Proviso Township Mental Health Center - Purchase and remodeling of two story office building for use as a community mental health center	Westchester, Ill.	11/11/74
1/	13.220	Central Michigan Community Hospital - Expansion and remodeling of existing facility.	Mt. Pleasant, Mich.	11/11/74
1/	13.220	West Michigan Shared Hospital Laundry - Erection and equipment of a shared hospital laundry.	Grand Rapids, Mich.	11/11/74
1/	13.220	Detroit General Hospital - Construction of replacement facility.	Detroit, Michigan	12/9/74
1/	13.220	DePaul Rehabilitation Hospital - Construction of two-story plus ground floor addition to existing facility.	Milwaukee, Wisconsin	12/9/74

1/ PL 88-443 as amended by Pl 91-296; 42 USC 291

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MARGINAL IMPACT STATEMENTS ISSUED

REGION VI

Author. No.	Fed. Asst. Cat. No.	Description of Proposed Action	Environment(s) Affected (City & State)	Date Issue
Fed. Prop. & Admin. Serv. Act of 1949	13.606	Proposed conversion of Federal surplus property at Red River Army Depot to multi-purpose demonstration and instructional farm by Texarkana Community College	Texarkana, Texas	7/11/74
P.L.81-152	13.606	Proposed conversion of Federal Surplus Real Property at Barksdale Air Force Base Communications Annex, Daingerfield Independent School District.	Daingerfield, Texas	8/1/74
PL 81-152	13.606	Proposed conversion of Federal Surplus Real Property at Fort Wolters, Texas into College Campus by Weatherford College.	Mineral Wells Area, Texas	9/5/74
PL 81-152	13.606	Proposed conversion of Federal Surplus Property at Red River Army Depot to vocational/agricultural component by Redwater Independent School District	Redwater, Texas	10/18/74
PL 81-152	13.606	Proposed construction of an off-site driving range in El Paso, Texas	El Paso, Texas	10/74
PL 81-152	13.606	Proposed construction of a Community College Campus in El Paso, Texas	El Paso, Texas	11/11/74
Federal Prop & Admin Serv Act of 1949, as amended	13.606	Proposed conversion of Federal surplus property at the Veterans Administration Hospital, Amarillo, Tx. to agricultural research use by Texas A&M Univ.	Amarillo, Texas	11/8/74
Fed. Prop & Admin Serv Act of 1949	13.606	Proposed construction of Mental Health and Mental Retardation Facilities in northeast El Paso	El Paso, Texas	11/19/74
PL 81-152	13.606	Proposed construction of an Educational Service Center	San Antonio, Texas	11/19/74

Author. No.	Fed. Asst. Cat. No.	Description of Proposed Action	Environment(s) Affected (City & State)	Date of Issuance
PL 81-152	13.606	Proposed utilization of surplus land as outdoor learning center at present and as site for school plant in future	El Paso, Texas	12/5/74

REGION VII

MARGINAL IMPACT STATEMENTS ISSUED

Author. No.	Fed. Asst. Cat. No.	Description of Proposed Action	Environment(s) Affected (City & State)	Date of Issuance
P.L. 91-296	13.253	Proposed construction of a 50 bed general hospital on 10 acres of a 23 acre site. The remainder of the 23 acres to be utilized for future development of a health related facilities.	Alliance, Nebraska	July, 1974

ENVIRONMENTAL IMPACT STATEMENTS ISSUED REGION VIII

Author. No.	Fed. Asst. Cat. No.	Description of Proposed Action	Environment(s) Affected (City & State)	Date of Issuance
P.L. 152		Proposed land transfer (6.14 acres) to State of South Dakota for use and benefit of S. Dak. State University	Brookings, S. Dak.	7/2/74
PL 92-158		Curricula changes from a 3-year diploma program to a 4-year baccalaureate program demands the construction of a new facility designed expressly for this purpose (Mary College Nursing Building)	Bismarck, North Dakota	7/18/74
PL 91-296		Crippled Children's Hospital School - Construction of dormitory unit to replace 32 non-conforming beds.	Jamestown, N. Dak.	8/13/74
PL 81-815	13.477	New Elementary School - Addition to existing elementary school in order to provide additional teaching space and administrative space	Wahpeton, N. Dak.	8/13/74
PL. 90-576	13.493	San Juan Basin Voc-Tech School To build an addition of 11,400 sq. ft. to existing structure in order to house shop and classroom facilities for Auto Body, Building Trades	Cortez, Colorado	8/13/74
PL 88-164		Northeastern Mental Health Center - Construction of free-standing out-patient mental health center	Aberdeen, S. Dak	9/20/74
PL 90-575	13.459	Lamar Community College - Construction of an indoor arena building	Lamar, Colorado	9/13/74
Title VII	13.459	Colorado Mountain College - Construction of a photo laboratory addition to existing building.	Glenwood Springs, Colo.	9/12/74
Title VII	13.459	Colorado Mountain College - Construction of a library as a separate building.	Glenwood Springs, Colo	9/11/74
Title VII	13.459	Aims College - Construction of a physical education building.	Greeley, Colo.	9/10/74
PL 92-158		College of Nursing - Construction of new free-standing College of Nursing Building to provide adequate instructional facilities for Baccalaureate Curriculum.	Grand Forks, N. Dak.	10/8/74
PL 90-576		Davis County Area Vocational Center, Construction of a vocational shop facility precast concrete building for the Davis County Area Vocational Center	Farmington, Utah	10/1/74
PL91-296	N/A	Replacement of 98 bed nonconforming hospital with modern 100 bed facility	Rock Springs, Wyoming	11/11/74
PL91-600	13.408	Construction of a new library building	Rocky Ford, Otero County, Colorado	11/11/74

Author. No.	Fed. Asst. Cat. No.	Description of Proposed Action	Environment(s) Affected (City & State)	Date of Issuanc
P. L. 91-296 6/30/70	None - Hill-Burton	Construction of a 30-bed Northern Box Elder Nursing Home	Tremonton, Utah	12/3/74
P. L. 91-600	13.408	Construction of an addition to the present Fremont County Public Library	Lander, Wyoming	12/3/74
Higher Educ. Act of 1965	13.459	Construction of a physical education facility on the present Aims College campus	Greeley, Colorado.	12/3/74
Higher Educ. Act of 1965	13.459	Construction of a new library building on the present Colorado Mountain Junior College campus	Glenwood Springs, Colorado	12/3/74
Higher Educ. Act of 1965	13.459	Construction of an indoor arena on the present Lamar Community College campus	Lamar, Colorado	12/3/74

MARGINAL IMPACT STATEMENTS ISSUED

REGION IX

Author. No.	Fed. Asst. Cat. No.	Description of Proposed Action	Environment(s) Affected (City & State)	Date of Issuance
PL 81-815	13.477	Construction of Elementary School Facilities, Sacaton School District	Sacaton, Arizona	7/26/74
PL 92-318	13.458	Construction of a new Academic Facility, U.C. Santa Cruz	Santa Cruz, Calif.	7/18/74
PL 92-318	13.464	Construction of a new library addition, UC Santa Cruz	Santa Cruz, Calif.	7/19/74
PL 92-318	13.458	Construction of a new Science Bldg. Azusa Pacific College	Azusa, Calif.	7/26/74
PL 92-157	13.350	Construction of Medical Teaching Facilities U.C. San Diego	La Jolla, Calif.	8/12/74
PL 91-600	13.408	Construction of a Centralized Processing Center (former Pohukaina School)	Honolulu, Hawaii	8/23/74
PL 81-152	13.606	Transfer of one off-site FAA Vortac Bldg. to the Amargosa Elementary School	Pahrump, Nevada	8/23/74
PL 81-152	13.606	Transfer of 49.49 acres of land and 9 buildings, Los Angeles Unified School District	Los Angeles, Calif.	8/23/74
PL 81-815	13.477	Construction of High School Facilities	Wheatland, Calif.	9/3/74
PL 81-152	13.606	Transfer of land to State of Hawaii Dept. of Education (Makalapa Naval Reservation and the Makalapa Elementary School)	Honolulu, Hawaii	9/6/74
PL 81-152	13.606	Transfer of land to University of Calif. (Portion Naval Supply Center, Point Loma, and the University of Calif.)	San Diego, Calif.	9/11/74
PL 91-600	13.408	Construction of a library	Yerrington, Nevada	9/20/74

Author. No.	Fed. Asst. Cat. No.	Description of Proposed Action	Environment(s) Affected (City & State)	Date of Issuance
PL 91 900	13.408	Construction of Community Library	Camp Verde, Arizona	10/2/74
TITLE VI	13.220	Construction of a Public Health Center and Outpatient Facility	Fallon, Nevada	10/2/74
PL 92-318	13.458	Construction of two-story administration and general purpose classroom facility, Southern California College	Costa Mesa, Calif.	10/10/74
PL 91-600	13.408	Construction of public library	Casa Grande, Arizona	10/11/74
PL 92-158	13.369	Construction of a single building for nursing facilities, Shasta College	Redding, Calif.	10/16/74
PL 81-815	13.477	Construction of an elementary school	Duncan, Arizona	10/16/74
PL 81-815	13.477	Construction of high school facilities,	Sierra Vista, Arizona	10/21/74
Title VI	13.220 and 13.253	Expansion of existing outpatient facilities	Wahiawa, Hawaii	10/23/74
PL 81-152	13.606	Transfer of 8 acres of land to the Institute of Human Behavior	Oakland, Calif.	10/29/74

Author. No.	Fed. Asst. Cat. No.	Description of Proposed Action	Environment(s) Affected (City & State)	Date of Issuance
PL 86-121	15.229	Construction of Domestic Water Supply & Waste Disposal Facilities	Woodsfords, Alpine County, California	11/4/74
PL 81-815	13.477	Construction of an elem. school addition, El Mirage School	Existing campus, El Mirage, Maricopa County, Arizona	11/8/74
PL 81-815	13.477	Construction of elem. school facilities for Fallbrook Union School District	Camp Pendleton, San Diego County, California	11/8/74
PL 92-318	13.459	Construction of new two-story classroom building, Orange Coast Community College	Existing campus, Costa Mesa, Orange County, California	11/8/74
PL 91-600	13.408	Construction of a central library building	Marysville, Yuba County, CA.	11/19/74
PL 91-600	13.408	Construction of a two-story building to serve as a community library	Fairfield, Solano County, California	11/20/74
PL 81-152	13.606	Transfer of 17.99 acres of land to the Fairfield - Suisun Unified School District	Fairfield, Solano County, California	11/22/74
PL 81-152	13.606	Transfer of 13.14 acres and improvements to the Travis Unified School District	Travis Air Force Base, Solano County, California	11/22/74
PL 81-152	13.606	Transfer of 2.5 acres of land and 6 buildings to Torrance Unified School District	Torrance, Los Angeles County, California	11/5/74
PL 93-	13.249	Construction of ambulatory health care facility	Pacoima, Los Angeles County California	11/8/74
PL 92-318	13.458	construction of theatre arts building, CALIF. STATE COLLEGE, DOMINGUEZ HILLS, CARSON, CALIFORNIA	existing campus in Carson, California (Los Angeles County)	12/23/74
Title II, Sec. 242 NHA (FHA)	14.128	Modernization and expansion of Outpatient clinic, Community Hospital, San Gabriel, Ca.	San Gabriel, California (Los Angeles County)	12/19/74

REGION X

MARGINAL IMPACT STATEMENTS ISSUED

Author. No.	Fed. Asst. Cat. No.	Description of Proposed Action	Environment(s) Affected (City & State)	Date of Issuance
PL 86-121	13.229	Proposed Project for the Construction of Individual Water Supply and Waste Disposal Facilities (70 homes)	Yakima Indian Reservation Washington	9/74
PL 860 121	13.229	Proposed project for the Construction of Individual Water Supply and Waste Disposal Facilities (for 22 homes on the reservation)	Warm Springs Indian Reservation, Oregon	10/74
PL 86-121	13.229	Proposed project for the Construction of a New Water Source, and Water Distribution and Waste Collection Facilities for the New Housing Site (50 unit)	Quilaute Indian Reservation, Clallam County, Washington	10/74
PL 88-164	13.240	Proposed Construction of a Replacement Mental Health Center	Seattle, Washington	12/74
PL 93-120	13.228	Replacement Community Health Facility	Bethel, Alaska	12/74

GARY L. WIDMAN,
General Counsel.

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